

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SEVENTY-SIXTH DAY — TUESDAY, MAY 24, 2005

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 789).

Present — Mr. Speaker; Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Hodge.

Absent — Crownover.

The invocation was offered by Reverend Barry Loving, senior minister, First Christian Church, Pampa, as follows:

Most wonderful God, with joy and great expectation we praise you for this day. You have blessed us with another day of life. You have called us to a time such as this. This time when our elected representatives gather to conduct business concerning this wonderful State of Texas in which we chose to live. Thank you for this time.

We beseech thee God, to continually remind us of the responsibility we have to all peoples as we consider the items of business before us this day. Might all who gather here have hearts and minds which work in accordance with your will.

In your infinite wisdom, would you guide us in times of discernment and in times of voting? We seek to be faithful stewards of the responsibilities you have bestowed upon us. Grant us your wisdom.

We pray, O God that you would continue to bless this chamber with your presence. We ask that your blessings be upon each of these representatives, Speaker Craddick, Governor Perry, and President Bush. Empower them as they lead in their respected positions. Empower all of us with the fortitude to walk in the ways of love and peace, and in doing so may we share your grace and mercy with all those we encounter in this day. A day of blessings indeed! We pray these things in the name of Jesus the Christ. Amen.

The speaker recognized Representative Chisum who led the house in the pledges of allegiance to the United States and Texas flags.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Nixon and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

CAPITOL PHYSICIAN

The speaker recognized Representative Hardcastle who presented Dr. Max Latham of Bowie as the "Doctor for the Day."

The house welcomed Dr. Latham and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(B. Cook in the chair)

HR 1798 - ADOPTED (by Giddings)

Representative Giddings moved to suspend all necessary rules to take up and consider at this time **HR 1798**.

The motion prevailed.

The following resolution was laid before the house:

HR 1798, Congratulating the Texas Department of Licensing and Regulation on receiving the 2004 Texas State Agency Safety Excellence Award.

HR 1798 was read and was adopted.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 1798** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Giddings who introduced directors of the Texas Department of Licensing and Regulation.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

HR 1815 - ADOPTED
(by Ritter)

Representative Ritter moved to suspend all necessary rules to take up and consider at this time **HR 1815**.

The motion prevailed.

The following resolution was laid before the house:

HR 1815, In memory of Tom Jackson of Beaumont.

HR 1815 was read and was unanimously adopted by a rising vote.

On motion of Representative R. Cook, the names of all the members of the house were added to **HR 1815** as signers thereof.

HR 2074 - ADOPTED
(by Farrar, Rodriguez, Anchia, Naishtat, Coleman, et al.)

Representative Farrar moved to suspend all necessary rules to take up and consider at this time **HR 2074**.

The motion prevailed.

The following resolution was laid before the house:

HR 2074, Honoring social work students from the University of Houston and The University of Texas for their service throughout the 79th Legislature.

HR 2074 was read and was adopted.

On motion of Representative J. Davis, the names of all the members of the house were added to **HR 2074** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Farrar who introduced social work interns from the University of Houston and The University of Texas.

HR 2024 - ADOPTED
(by Peña, Vo, Gonzales, and Guillen)

Representative Peña moved to suspend all necessary rules to take up and consider at this time **HR 2024**.

The motion prevailed.

The following resolution was laid before the house:

HR 2024, Honoring Louis Patino, D.C., for his contributions to the health and well-being of his fellow Texans.

HR 2024 was adopted.

On motion of Representative Y. Davis, the names of all the members of the house were added to **HR 2024** as signers thereof.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Solomons requested permission for the conference committee on **HB 7** and **SB 5** to meet while the house is in session for the remainder of the session.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference Committee on **HB 7** and **SB 5**, 11 a.m. today, Betty King Room.

RESOLUTIONS ADOPTED

Representative Edwards moved to suspend all necessary rules in order to take up and consider at this time **HR 1715 - 1716, HR 1760, HR 1849, HR 1913 - HR 1917, HR 1944, HR 1945, HR 1838, HR 1837, and HR 1942.**

The motion prevailed.

The following resolutions were laid before the house:

HR 1715 (by Y. Davis), Honoring Destinee Nacole Waiters of San Antonio on her service as an intern during the 79th Legislative Session.

HR 1716 (by Y. Davis), Honoring Melisha S. Craft of Houston on her service as an intern during the 79th Legislative Session.

HR 1760 (by Y. Davis), In memory of Arthello Beck, Jr., of Dallas.

HR 1849 (by Y. Davis), Honoring Mariah Willis of Odessa for her academic, athletic, and community achievements.

HR 1913 (by Y. Davis), Congratulating Daryl Jerome Burton II of Grand Prairie on receiving the Future African American Leadership Award from the Texas Legislative Black Caucus.

HR 1914 (by Y. Davis), Congratulating Ophelia Hines of Dallas on her selection as a 2005 Outstanding Texan by the Texas Legislative Black Caucus.

HR 1915 (by Y. Davis), Congratulating Edna Pemberton on being named an Outstanding Texan by the Texas Legislative Black Caucus.

HR 1916 (by Y. Davis), Congratulating Jennifer Joy Medlock of Dallas on being named an Outstanding Texan by the Texas Legislative Black Caucus.

HR 1917 (by Y. Davis), Congratulating Mariah L. Willis of Odessa on her receipt of the 2005 Future African American Leadership Award from the Texas Legislative Black Caucus.

HR 1944 (by Y. Daviss), Congratulating Sergeant Rosalind Perry of Garland on her receipt of an Outstanding Texan Award in the area of public safety/law enforcement from the Texas Legislative Black Caucus.

HR 1945 (by Y. Davis), Honoring Robert Medlock as a 2005 Texas Legislative Black Caucus Outstanding Texan.

HR 1837 (by McCall), Honoring Nancy Boyd on the occasion of her retirement from the Plano Independent School District.

HR 1838 (by McCall), Congratulating Abby Robinson Kratz on receiving her doctorate in education leadership from Texas A&M University–Corpus Christi.

HR 1942 (by McCall), Congratulating the Plano West High School lacrosse team on winning the Division II state championship crown.

The resolutions were adopted.

HR 1884 - ADOPTED
(by Corte)

Representative Corte moved to suspend all necessary rules to take up and consider at this time **HR 1884**.

The motion prevailed.

The following resolution was laid before the house:

HR 1884, Convening a memorial session in the chamber of the Texas House of Representatives to honor all Texans killed during the Global War on Terrorism.

BE IT RESOLVED by the House of Representatives of the 79th Texas Legislature that the House of Representatives of the State of Texas meet in memorial session in the Hall of the House of Representatives on Thursday, May 26, 2005, to honor all Texans killed while serving in the Global War on Terrorism; and, be it further

RESOLVED, That the Honorable Rick Perry, Governor of Texas, all Texas state officials, and the family members of those killed in the Global War on Terrorism be, and hereby are, invited to attend the memorial session.

HR 1884 was read and was adopted.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 50).

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 7** and **SB 5**:

Giddings on motion of Homer.

Rose on motion of Homer.

Solomons on motion of Homer.

Taylor on motion of Homer.

Zedler on motion of Homer.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 447 ON SECOND READING
(Madden - House Sponsor)

SB 447, A bill to be entitled An Act relating to the sale of tax receivables by a local government.

SB 447 was read second time on May 16, postponed until May 17, postponed until May 23, and was again postponed until 5:30 p.m. May 23.

Representative Madden moved to postpone consideration of **SB 447** until 12 p.m. today.

The motion prevailed.

CSSB 1863 ON SECOND READING
(Pitts - House Sponsor)

CSSB 1863, A bill to be entitled An Act relating to certain fiscal matters affecting governmental entities.

CSSB 1863 was read second time on May 22, postponed until May 23, and was again postponed until 10 a.m. today.

Representative Pitts moved to postpone consideration of **CSSB 1863** until 11:45 a.m. today.

The motion prevailed.

MAJOR STATE CALENDAR
SENATE BILLS
THIRD READING

The following bills were laid before the house and read third time:

SB 1691 ON THIRD READING
(Eiland - House Sponsor)

SB 1691, A bill to be entitled An Act relating to certain retired school employees and the powers and duties of the Teacher Retirement System of Texas; providing a penalty.

SB 1691 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: A. Allen and Gallego recorded voting no; Herrero, Leibowitz, M. Noriega, and Peña recorded voting present, not voting; Solis recorded voting yes.)

MAJOR STATE CALENDAR
SENATE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSSB 890 ON SECOND READING
(Nixon - House Sponsor)

CSSB 890, A bill to be entitled An Act relating to the amount of recovery in a civil action.

CSSB 890 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 837 ON SECOND READING
(Keel - House Sponsor)

SB 837, A bill to be entitled An Act relating to the insanity defense.

Amendment No. 1 (Committee Amendment No. 1)

Representative Keel offered the following committee amendment to **SB 837**:

Amend **SB 837** (Senate engrossed version) as follows:

(1) In SECTION 2 of the bill, in added Subsection (b), Article 46C.051, Code of Criminal Procedure (page 2, line 19), strike "10" and substitute "20".

(2) In SECTION 2 of the bill, in added Subsection (b), Article 46C.051, Code of Criminal Procedure (page 2, line 20), strike "Subsections (c) and (d)" and substitute "Subsection (c)".

(3) In SECTION 2 of the bill, in added Subsection (c), Article 46C.051, Code of Criminal Procedure (page 2, line 21), strike "10-day" and substitute "20-day".

(4) In SECTION 2 of the bill, in added Article 46C.051, Code of Criminal Procedure (page 2, lines 23-26), strike Subsection (d).

Amendment No. 1 was adopted.

Amendment No. 2

Representative Keel offered the following amendment to **SB 837**:

Amend **SB 837** (House committee printing) as follows:

(1) In SECTION 2 of the bill, immediately following added Subsection (b), Article 46C.258, Code of Criminal Procedure (page 19, between lines 7 and 8), insert the following:

(c) Not later than the 60th day before the date of expiration of the order, the head of the facility shall transmit to the committing court a psychological evaluation of the acquitted person, a certificate of medical examination of the person, and any recommendation for further treatment of the person. The committing court shall make the documents available to the attorneys representing the state and the acquitted person.

(2) In SECTION 2 of the bill, in added Subsection (d), Article 46C.263, Code of Criminal Procedure (page 24, line 11), between "by" and "the", insert "the appropriate community supervision and corrections department or".

Amendment No. 2 was adopted.

SB 837, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 60 ON SECOND READING

(Goolsby, McClendon, Dutton, Keel, and Talton - House Sponsors)

CSSB 60, A bill to be entitled An Act relating to the representation of certain defendants in capital cases and to the punishment for a capital felony or other felony punishable by a term of imprisonment exceeding 99 years.

Amendment No. 1

Representative Talton offered the following amendment to **CSSB 60**:

Amend **CSSB 60** (house committee printing) as follows:

- (1) Strike SECTIONS 2 and 3 of the bill (page 1, line 23, through page 3, line 26).
- (2) Strike SECTIONS 13-22 of the bill (page 10, line 10, through page 14, line 22).
- (3) Renumber remaining SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Dutton offered the following amendment to **CSSB 60**:

Amend **CSSB 60** (house committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 6-22) and substitute the following:

SECTION 1. Section 12.31, Penal Code, is amended to read as follows:

Sec. 12.31. CAPITAL FELONY. (a) An individual adjudged guilty of a capital felony in a case in which the state seeks the death penalty shall be punished by imprisonment in the institutional division for life, for life without parole, or by death. An individual adjudged guilty of a capital felony in a case in which the state does not seek the death penalty shall be punished by imprisonment in the institutional division for life or for life without parole.

(b) In a capital felony trial in which the state seeks the death penalty, prospective jurors shall be informed that a sentence of life imprisonment, life imprisonment without parole, or death is mandatory on conviction of a capital felony. In a capital felony trial in which the state does not seek the death penalty, prospective jurors shall be informed that the state is not seeking the death penalty and that a sentence of life imprisonment or life imprisonment without parole is mandatory on conviction of the capital felony.

(2) Strike SECTION 4 of the bill (page 3, line 27 through page 4, line 12) and substitute the following:

SECTION 4. Section 508.046, Government Code, is amended to read as follows:

Sec. 508.046. EXTRAORDINARY VOTE REQUIRED. To release on parole an inmate who was convicted of a capital felony punishable by imprisonment for life or an offense under Section 21.11(a)(1) or 22.021, Penal Code, or who is required under Section 508.145(c) to serve 35 calendar years before becoming eligible for release on parole, all members of the board must vote on the release on parole of the inmate, and at least two-thirds of the members must vote in favor of the release on parole. A member of the board may not vote on the release unless the member first receives a copy of a written report from the department on the probability that the inmate would commit an offense after being released on parole.

(3) Strike SECTION 5 of the bill (page 4, lines 13–21) and substitute the following:

SECTION 5. Section 508.145(a), Government Code, is amended to read as follows:

(a) An inmate under sentence of death or serving a sentence of life imprisonment without parole is not eligible for release on parole.

(4) Strike SECTION 6 of the bill (page 4, lines 22-26) and substitute the following:

SECTION 6. Section 1, Article 37.071, Code of Criminal Procedure, is amended to read as follows:

Sec. 1. (a) In a capital case in which the state does not seek the death penalty, on a finding at trial that the defendant is guilty of a capital offense, or on a plea of guilty or nolo contendere by the defendant, the court shall conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to life imprisonment or life imprisonment without parole. The proceeding shall be conducted in the trial court and before the trial jury as soon as practicable, except that the court shall empanel a new jury if required by Article 44.29(c) or if the defendant has entered a plea of guilty or nolo contendere and requested that a jury assess punishment. After a finding of guilty is returned or after the defendant enters a plea of guilty or nolo contendere, the defendant, with the consent of the attorney representing the state, may change the defendant's election of who assesses punishment. In the proceeding, evidence may be presented by the state and the defendant or the defendant's counsel as to any matter that the court considers relevant to sentence, in the same manner as if the defendant were being sentenced in a noncapital case. This subsection may not be construed to authorize the introduction of any evidence secured in violation of the Constitution of the United States or of the State of Texas.

(b) At the proceeding under this section, the court shall instruct the jury that, after taking into account all the evidence described by Subsection (a), the jury shall assess as punishment on the defendant a sentence of life imprisonment in the institutional division of the Texas Department of Criminal Justice or a sentence of imprisonment in the institutional division for life without parole. The court shall further charge the jury that a defendant sentenced to imprisonment for life without parole under this section is ineligible for release from the institutional division on parole or mandatory supervision and that a defendant sentenced to imprisonment for life is ineligible for release from the institutional division on

mandatory supervision and is ineligible for release from the institutional division on parole until the defendant's actual calendar time served, without consideration of good conduct time, equals 40 years.

(c) If the jury assesses punishment as life imprisonment or is unable to assess punishment, the court shall sentence the defendant to life imprisonment in the institutional division of the Texas Department of Criminal Justice. If the jury assesses punishment as imprisonment for life without parole, the court shall sentence the defendant to imprisonment in the institutional division for life without parole. [If a defendant is found guilty in a capital felony case in which the state does not seek the death penalty, the judge shall sentence the defendant to life imprisonment.]

(5) In SECTION 7 of the bill, in Subdivision (1), Subsection (a), Section 2, Article 37.071, Code of Criminal Procedure (page 5, line 6), strike "death or" and substitute "death, life imprisonment, or".

(6) Strike SECTION 8 of the bill (page 5, line 23 through page 7, line 3) and substitute the following:

SECTION 8. Section 2(e), Article 37.071, Code of Criminal Procedure, is amended to read as follows:

(e)(1) The judge ~~court~~ shall instruct the jury that if the jury returns an affirmative finding to each issue submitted under Subsection (b) ~~[of this article]~~, it shall answer the following issue:

Whether, taking into consideration all of the evidence, including the circumstances of the offense, the defendant's character and background, and the personal moral culpability of the defendant, there is a sufficient mitigating circumstance or circumstances to warrant that a sentence of life imprisonment or life imprisonment without parole rather than a death sentence be imposed.

(2) The judge shall instruct the jury that:

(A) if the jury returns an affirmative finding on each issue submitted under Subsection (b) and a negative finding on an issue submitted under Subdivision (1), the judge shall sentence the defendant to death;

(B) if the jury returns an affirmative finding on each issue submitted under Subsection (b) and returns an affirmative finding on an issue submitted under Subdivision (1), the judge shall sentence the defendant to life imprisonment without parole; and

(C) if the jury returns a negative finding on an issue submitted under Subsection (b), the judge shall sentence the defendant to life imprisonment.

(3) The judge, after instructing the jury under Subdivision (2), shall further charge the jury that a defendant sentenced to imprisonment for life without parole under this article is ineligible for release from the institutional division of the Texas Department of Criminal Justice on parole or mandatory supervision and that a defendant sentenced to imprisonment for life under this article is ineligible for release from the institutional division on mandatory supervision and is ineligible for release from the institutional division on parole until the defendant's actual calendar time served, without consideration of good conduct time, equals 40 years. [The court, on the written request of the attorney representing the defendant, shall:

~~[(A) instruct the jury that if the jury answers that a circumstance or circumstances warrant that a sentence of life imprisonment rather than a death sentence be imposed, the court will sentence the defendant to imprisonment in the institutional division of the Texas Department of Criminal Justice for life; and~~

~~[(B) charge the jury in writing as follows:~~

~~["Under the law applicable in this case, if the defendant is sentenced to imprisonment in the institutional division of the Texas Department of Criminal Justice for life, the defendant will become eligible for release on parole, but not until the actual time served by the defendant equals 40 years, without consideration of any good conduct time. It cannot accurately be predicted how the parole laws might be applied to this defendant if the defendant is sentenced to a term of imprisonment for life because the application of those laws will depend on decisions made by prison and parole authorities, but eligibility for parole does not guarantee that parole will be granted."]~~

(7) Strike SECTION 9 of the bill (page 7, lines 4–16) and substitute the following:

SECTION 9. Section 2(g), Article 37.071, Code of Criminal Procedure, is amended to read as follows:

(g) If the jury returns an affirmative finding on each issue submitted under Subsection (b) ~~[of this article]~~ and a negative finding on an issue submitted under Subsection (e)(1) ~~[of this article]~~, the judge ~~[court]~~ shall sentence the defendant to death. If the jury returns an affirmative finding on each issue submitted under Subsection (b) and returns an affirmative finding on an issue submitted under Subsection (e)(1) or is unable to answer an issue submitted under Subsection (e)(1), the judge shall sentence the defendant to imprisonment in the institutional division of the Texas Department of Criminal Justice for life without parole. If the jury returns a negative finding on any issue submitted under Subsection (b) ~~[of this article or an affirmative finding on an issue submitted under Subsection (e) of this article]~~ or is unable to answer any issue submitted under Subsection (b) ~~[or (e) of this article]~~, the judge ~~[court]~~ shall sentence the defendant to imprisonment [confinement] in the institutional division ~~[of the Texas Department of Criminal Justice]~~ for life.

(8) Strike SECTIONS 10 and 11 of the bill (page 7, line 17 through page 9, line 21).

(9) Renumber remaining SECTIONS of the bill accordingly.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Keel offered the following amendment to **CSSB 60**:

Amend **CSSB 60** (House committee printing) by striking SECTION 12 of the bill (page 9, line 22 through page 10, line 9) and renumbering subsequent SECTIONS accordingly.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Keel offered the following amendment to **CSSB 60**:

Amend **CSSB 60** (House committee printing) as follows:

(1) In SECTION 10 of the bill, strike amended Subsection (a), Article 44.251, Code of Criminal Procedure (page 7, lines 19-27), and substitute the following:

(a) The court of criminal appeals shall reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice for life without parole if the court finds that there is legally insufficient evidence to support an affirmative answer to an issue submitted to the jury under Section 2(b), Article 37.071~~[, or Section 3(b), Article 37.0711, of this code or a negative answer to an issue submitted to a jury under Section 2(e), Article 37.071, or Section 3(e), Article 37.0711, of this code]~~.

(2) In SECTION 11 of the bill, strike added Subsection (b), Article 44.2511, Code of Criminal Procedure (page 8, line 23, through page 9, line 2), and substitute the following:

(b) The court of criminal appeals shall reform a sentence of death to a sentence of confinement in the institutional division of the Texas Department of Criminal Justice for life if the court finds that there is legally insufficient evidence to support an affirmative answer to an issue submitted to the jury under Section 3(b), Article 37.0711.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Dutton offered the following amendment to **CSSB 60**:

Amend **CSSB 60** (house committee printing) by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 8.07(c), Penal Code, is amended to read as follows:

(c) No person may, in any case, be punished by death for an offense committed while the person ~~he~~ was younger than 18 ~~17~~ years.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Keel offered the following amendment to **CSSB 60**:

Amend **CSSB 60** (committee printing) as follows:

(1) In SECTION 24 of the bill, at the end of amended Section 2(d), Article 11.071, Code of Criminal Procedure (page 15, line 8), strike "criminal" and substitute "capital".

(2) In SECTION 25 of the bill, in amended Subdivision (2), Article 26.052(d), Code of Criminal Procedure (page 15, line 15), between "case" and the colon, insert "or an attorney appointed as lead counsel in the direct appeal of a death penalty case".

(3) In SECTION 25 of the bill, in amended Paragraph (C), Subdivision (2), Article 26.052(d), Code of Criminal Procedure (page 15, line 22), strike "criminal" and substitute "capital".

(4) In SECTION 25 of the bill, strike proposed Subdivision (3), Article 26.052(d), Code of Criminal Procedure (page 16, lines 11-15), and renumber existing subdivisions of that article accordingly.

Amendment No. 6 was adopted.

(Speaker in the chair)

(Crownover now present)

A record vote was requested.

CSSB 60, as amended, was passed to third reading by (Record 790): 104 Yeas, 37 Nays, 1 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, F.; Burnam; Casteel; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Crabb; Davis, J.; Davis, Y.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Hardcastle; Hegar; Herrero; Hilderbran; Hochberg; Homer; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keel; King, P.; King, T.; Kolkhorst; Krusee; Laney; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Rodriguez; Seaman; Smith, W.; Solis; Strama; Straus; Talton; Thompson; Truitt; Turner; Uresti; Veasey; Villarreal; Vo; West; Wong.

Nays — Allen, R.; Anderson; Bonnen; Brown, B.; Callegari; Campbell; Corte; Crownover; Dawson; Delisi; Edwards; Elkins; Geren; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hill; Hope; Hopson; Jackson; Keffer, B.; Keffer, J.; Kuempel; Laubenberg; Miller; Mowery; Paxton; Riddle; Ritter; Smith, T.; Smithee; Swinford; Van Arsdale; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons; Taylor; Zedler.

Absent — Chisum.

(Hilderbran in the chair)

CSSB 1188 ON SECOND READING
(Delisi - House Sponsor)

CSSB 1188, A bill to be entitled An Act relating to the medical assistance program and the provision of related services.

Amendment No. 1

Representative Delisi offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered Sections to the bill and renumbering subsequent Sections of the bill accordingly:

SECTION _____. Section 531.102, Government Code, is amended by adding Subsections (j) and (k) to read as follows:

(j) The office shall prepare a final report on each audit or investigation conducted under this section. The final report must include:

(1) a summary of the activities performed by the office in conducting the audit or investigation;

(2) a statement regarding whether the audit or investigation resulted in a finding of any wrongdoing; and

(3) a description of any findings of wrongdoing.

(k) A final report on an audit or investigation is subject to required disclosure under Chapter 552. All information and materials compiled during the audit or investigation remain confidential and not subject to required disclosure in accordance with Section 531.1021(g).

SECTION _____. Section 531.1021, Government Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g) All information and materials subpoenaed or compiled by the office in connection with an audit or investigation are confidential and not subject to disclosure under Chapter 552, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the office or its employees or agents involved in the audit or investigation conducted by the office, except that this information may be disclosed to the office of the attorney general, the state auditor's office, and law enforcement agencies.

(h) A person who receives information under Subsection (g) may disclose the information only in accordance with Subsection (g) and in a manner that is consistent with the authorized purpose for which the person first received the information.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Delisi offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. MEDICAL INFORMATION TELEPHONE HOTLINE.

(a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02131 to read as follows:

Sec. 531.02131. MEDICAID MEDICAL INFORMATION TELEPHONE HOTLINE PILOT PROGRAM. (a) In this section, "net cost-savings" means the total projected cost of Medicaid benefits for an area served under the pilot program minus the actual cost of Medicaid benefits for the area.

(b) The commission shall evaluate the cost-effectiveness, in regard to preventing unnecessary emergency room visits and ensuring that Medicaid recipients seek medical treatment in the most medically appropriate and cost-effective setting, of developing a Medicaid medical information telephone

hotline pilot program under which physicians are available by telephone to answer medical questions and provide medical information for recipients. If the commission determines that the pilot program is likely to result in net cost-savings, the commission shall develop the pilot program.

(c) The commission shall select the area in which to implement the pilot program. The selected area must include:

(1) at least two counties; and

(2) not more than 100,000 Medicaid recipients, with approximately 50 percent of the recipients enrolled in a managed care program in which the recipients receive services from a health maintenance organization.

(d) The commission shall request proposals from private vendors for the operation of a telephone hotline under the pilot program. The commission may not award a contract to a vendor unless the vendor agrees to contractual terms:

(1) requiring the vendor to answer medical questions and provide medical information by telephone to recipients using only physicians;

(2) providing that the value of the contract is contingent on achievement of net cost-savings in the area served by the vendor; and

(3) permitting the commission to terminate the contract after a reasonable period if the vendor's services do not result in net cost-savings in the area served by the vendor.

(e) The commission shall periodically determine whether the pilot program is resulting in net cost-savings. The commission shall discontinue the pilot program if the commission determines that the pilot program is not resulting in net cost-savings after a reasonable period.

(f) Notwithstanding any other provision of this section, including Subsection (b), the commission is not required to develop the pilot program if suitable private vendors are not available to operate the telephone hotline.

(g) The executive commissioner shall adopt rules necessary for implementation of this section.

(b) Not later than December 1, 2005, the Health and Human Services Commission shall determine whether the pilot program described by Section 531.02131, Government Code, as added by this section, is likely to result in net cost-savings. If the determination indicates that net cost-savings are likely, the commission shall take the action required by Subsections (c), (d), and (e) of this section.

(c) Not later than January 1, 2006, the Health and Human Services Commission shall select the counties in which the pilot program will be implemented.

(d) Not later than February 1, 2006, the Health and Human Services Commission shall request proposals from private vendors for the operation of a medical information telephone hotline. The commission shall evaluate the proposals and choose one or more vendors as soon as possible after the receipt of the proposals.

(e) Not later than January 1, 2007, the Health and Human Services Commission shall report to the governor, the lieutenant governor, and the speaker of the house of representatives regarding the pilot program. The report must include:

- (1) a description of the status of the pilot program, including whether the commission was unable to contract with a suitable vendor;
- (2) if the pilot program has been implemented:
 - (A) an evaluation of the effects of the pilot program on emergency room visits by program participants; and
 - (B) a description of cost savings in the area included in the pilot program; and
- (3) recommendations regarding expanding or revising the pilot program.

(2) In SECTION 11(a) of the bill (page 28, lines 18 through 19), strike "Except as otherwise provided by this subsection and Subsection (d) of this section," and substitute "Except as otherwise provided by this Act,".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Delisi offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. OFFICE OF MEDICAL TECHNOLOGY. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.0081 to read as follows:

Sec. 531.0081. OFFICE OF MEDICAL TECHNOLOGY. (a) In this section, "office" means the office of medical technology.

(b) The commission shall establish the office of medical technology within the commission. The office shall explore and evaluate new developments in medical technology and propose implementing the technology in the medical assistance program under Chapter 32, Human Resources Code, if appropriate and cost-effective.

(c) Office staff must have skills and experience in research regarding health care technology.

SECTION _____. MEDICAID REIMBURSEMENT RATES. (a) Section 531.021, Government Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) In adopting rates for medical assistance payments under Subsection (b)(2), the executive commissioner may adopt reimbursement rates for appropriate nursing services provided to recipients with certain health conditions if those services are determined to provide a cost-effective alternative to hospitalization. A physician must certify that the nursing services are medically appropriate for the recipient for those services to qualify for reimbursement under this subsection.

(g) In adopting rates for medical assistance payments under Subsection (b)(2), the executive commissioner may adopt cost-effective reimbursement rates for group appointments with medical assistance providers for certain diseases and medical conditions specified by rules of the executive commissioner.

(b) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02175 to read as follows:

Sec. 531.02175. REIMBURSEMENT FOR ONLINE MEDICAL CONSULTATIONS. (a) In this section, "physician" means a person licensed to practice medicine in this state under Subtitle B, Title 3, Occupations Code.

(b) Subject to the requirements of this subsection, the executive commissioner by rule may require the commission and each health and human services agency that administers a part of the Medicaid program to provide Medicaid reimbursement for a medical consultation that is provided by a physician or other health care professional using the Internet as a cost-effective alternative to an in-person consultation. The executive commissioner may require the commission or a health and human services agency to provide the reimbursement described by this subsection only if the Centers for Medicare and Medicaid Services develop an appropriate Current Procedural Terminology code for medical services provided using the Internet.

(c) The executive commissioner may develop and implement a pilot program in one or more sites chosen by the executive commissioner under which Medicaid reimbursements are paid for medical consultations provided by physicians or other health care professionals using the Internet. The pilot program must be designed to test whether an Internet medical consultation is a cost-effective alternative to an in-person consultation under the Medicaid program. The executive commissioner may modify the pilot program as necessary throughout its implementation to maximize the potential cost-effectiveness of Internet medical consultations. If the executive commissioner determines from the pilot program that Internet medical consultations are cost-effective, the executive commissioner may expand the pilot program to additional sites or may implement Medicaid reimbursements for Internet medical consultations statewide.

(d) The executive commissioner is not required to implement the pilot program authorized under Subsection (c) as a prerequisite to providing Medicaid reimbursement authorized by Subsection (b) on a statewide basis.

SECTION _____. HOSPITAL EMERGENCY ROOM USE REDUCTION.
(a) Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.085 to read as follows:

Sec. 531.085. HOSPITAL EMERGENCY ROOM USE REDUCTION INITIATIVES. The commission shall develop and implement a comprehensive plan to reduce the use of hospital emergency room services by recipients under the medical assistance program. The plan may include:

(1) a pilot program designed to facilitate program participants in accessing an appropriate level of health care, which may include as components:

(A) providing program participants access to bilingual health services providers; and

(B) giving program participants information on how to access primary care physicians, advanced practice nurses, and local health clinics;

(2) a pilot program under which health care providers, other than hospitals, are given financial incentives for treating recipients outside of normal business hours to divert those recipients from hospital emergency rooms;

(3) payment of a nominal referral fee to hospital emergency rooms that perform an initial medical evaluation of a recipient and subsequently refer the recipient, if medically stable, to an appropriate level of health care, such as care provided by a primary care physician, advanced practice nurse, or local clinic;

(4) a program under which the commission or a managed care organization that enters into a contract with the commission under Chapter 533 contacts, by telephone or mail, a recipient who accesses a hospital emergency room three times during a six-month period and provides the recipient with information on ways the recipient may secure a medical home to avoid unnecessary treatment at hospital emergency rooms;

(5) a health care literacy program under which the commission develops partnerships with other state agencies and private entities to:

(A) assist the commission in developing materials that:

(i) contain basic health care information for parents of young children who are recipients under the medical assistance program and who are participating in public or private child-care or prekindergarten programs, including federal Head Start programs; and

(ii) are written in a language understandable to those parents and specifically tailored to be applicable to the needs of those parents;

(B) distribute the materials developed under Paragraph (A) to those parents; and

(C) otherwise teach those parents about the health care needs of their children and ways to address those needs; and

(6) other initiatives developed and implemented in other states that have shown success in reducing the incidence of unnecessary treatment in hospital emergency rooms.

(b) The Health and Human Services Commission may develop the health care literacy component of the comprehensive plan to reduce the use of hospital emergency room services required by Section 531.085(5), Government Code, as added by this section, so that the health care literacy component operates in a manner similar to the manner in which the Johnson & Johnson/UCLA Health Care Institute operates its health care training program that is designed to teach parents to better address the health care needs of their children.

SECTION ____ . PERFORMANCE BONUS PILOT PROGRAM. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.086 to read as follows:

Sec. 531.086. PERFORMANCE BONUS PILOT PROGRAM. (a) The commission shall develop a proposal for providing higher reimbursement rates to primary care case management providers under the Medicaid program who treat program recipients with chronic health conditions in accordance with evidence-based, nationally accepted best practices and standards of care.

(b) The commission shall define the parameters of the proposed program, including:

- (1) the types of chronic health conditions the program would target;
- (2) the best practices and standards of care that must be followed for a provider to obtain a higher reimbursement rate under the proposed program; and
- (3) the types of providers to whom the higher reimbursement rate would be offered under the proposed program.

(c) Not later than December 1, 2006, the Health and Human Services Commission shall report to the standing committees of the senate and the house of representatives having primary jurisdiction over welfare programs regarding the proposed program under this section. The report must include:

- (1) the anticipated effect of the higher reimbursement rates to be offered under the program on the quality of care provided and the health outcomes for program recipients;
- (2) a determination of whether the program would be cost-effective;

and

- (3) a recommendation regarding implementation of the program.

(d) This section expires September 1, 2007.

SECTION ____. RETURN OF UNUSED DRUGS. Section 562.1085, Occupations Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) A pharmacist who practices in or serves as a consultant for a health care facility in this state may return to a pharmacy certain unused drugs, other than a controlled substance as defined by Chapter 481, Health and Safety Code, purchased from the pharmacy as provided by board rule. The unused drugs must:

- (1) be approved by the federal Food and Drug Administration and be:

(A) sealed in [~~the manufacturer's original~~] unopened tamper-evident packaging and either individually packaged or packaged in unit-dose packaging;

(B) oral or parenteral medication in sealed single-dose containers approved by the federal Food and Drug Administration;

(C) topical or inhalant drugs in sealed units-of-use containers approved by the federal Food and Drug Administration; or

(D) parenteral medications in sealed multiple-dose containers approved by the federal Food and Drug Administration from which doses have not been withdrawn; and

(2) not be the subject of a mandatory recall by a state or federal agency or a voluntary recall by a drug seller or manufacturer.

(f) The tamper-evident packaging required under Subsection (a)(1) for the return of unused drugs is not required to be the manufacturer's original packaging unless that packaging is required by federal law.

SECTION ____. MEDICAID COVERAGE FOR HEALTH INSURANCE PREMIUMS AND LONG-TERM CARE NEEDS. (a) The Health and Human Services Commission shall explore the commission's authority under federal law to offer, and the cost and feasibility of offering:

(1) a stipend paid by the Medicaid program to a person to cover the cost of a private health insurance plan as an alternative to providing traditional Medicaid services for the person;

(2) premium payment assistance through the Medicaid program for long-term care insurance for a person with a health condition that increases the likelihood that the person will need long-term care in the future; and

(3) a long-term care partnership between the Medicaid program and a person under which the person pays the premiums for long-term care insurance and the Medicaid program provides continued coverage after benefits under that insurance are exhausted.

(b) In exploring the feasibility of the options described by Subsection (a) of this section, the Health and Human Services Commission shall consider whether other state incentives that could encourage persons to purchase health insurance plans or long-term care insurance are feasible. The incentives may include offering tax credits to businesses to increase the availability of affordable insurance.

(c) If the Health and Human Services Commission determines that any of the options described by Subsection (a) of this section are feasible and cost-effective, the commission shall make efforts to implement those options to the extent they are authorized by federal law. The commission shall request any necessary waivers from the Centers for Medicare and Medicaid Services as soon as possible after determining that an option is feasible and cost-effective. If the commission determines that legislative changes are necessary to implement an option, the commission shall report to the 80th Legislature and specify the changes that are needed.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Delisi offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. MEDICAID DISEASE MANAGEMENT PROGRAMS.

(a) Section 533.009, Government Code, is amended by adding Subsection (f) to read as follows:

(f) The executive commissioner, by rule, shall prescribe the minimum requirements that a managed care organization, in providing a disease management program, must meet to be eligible to receive a contract under this section. The managed care organization must, at a minimum, be required to:

(1) provide disease management services that have performance measures for particular diseases that are comparable to the relevant performance measures applicable to a provider of disease management services under Section 32.059, Human Resources Code, as added by Chapter 208, Acts of the 78th Legislature, Regular Session, 2003; and

(2) show evidence of managing complex diseases in the Medicaid population.

(b) Section 32.059, Human Resources Code, as added by Chapter 208, Acts of the 78th Legislature, Regular Session, 2003, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The executive commissioner of the Health and Human Services Commission [~~department~~], by rule, shall prescribe the minimum requirements a provider of a disease management program must meet to be eligible to receive a contract under this section. The provider must, at a minimum, be required to:

(1) use disease management approaches that are based on evidence-supported models, [~~minimum~~] standards of care in the medical community, and clinical outcomes; and

(2) ensure that a recipient's primary care physician and other appropriate specialty physicians, or registered nurses, advanced practice nurses, or physician assistants specified and directed or supervised in accordance with applicable law by the recipient's primary care physician or other appropriate specialty physicians, become directly involved in the disease management program through which the recipient receives services.

(c-1) A managed care health plan that develops and implements a disease management program under Section 533.009, Government Code, and a provider of a disease management program under this section shall coordinate during a transition period beneficiary care for patients that move from one disease management program to another program.

(c) The executive commissioner of the Health and Human Services Commission may use a provider of a disease management program under Section 32.059, Human Resources Code, as added by Chapter 208, Acts of the 78th Legislature, Regular Session, 2003, as amended by this section, to provide disease management services if the executive commissioner determines that the use of that provider will be more cost-effective to the Medicaid program than using a provider of a disease management program under Section 533.009, Government Code, as amended by this section. A Medicaid recipient currently in a disease management program provided under Section 32.059, Human Resources Code, as added by Chapter 208, Acts of the 78th Legislature, Regular Session, 2003, in a service area that is subject to a Medicaid managed care expansion may remain enrolled in the recipient's current disease management program if the executive commissioner determines that allowing those recipients to remain is cost-effective.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** as follows:

(1) Strike added Section 531.502, Government Code, (page 2, lines 2-9) and substitute the following:

Sec. 531.502. MAXIMUM PRICE. The executive commissioner shall determine by rule the price of a prescription drug charged to an eligible person under the state pharmacy assistance program. The price may not exceed the sum of:

(1) the discounted acquisition price under the program; and

(2) a reasonable dispensing fee.

(2) Strike added Section 531.504(d), Government Code, (page 4, lines 13-23) and substitute the following:

(d) The executive commissioner by rule shall specify inventory and recordkeeping requirements for participating pharmacies.

(3) In added Section 531.505(a), Government Code (page 5, line 12-13) strike "an entity designated by the executive commissioner" and substitute "a physician who meets the requirements under Section 563.053, Occupations Code.".

(4) In added Section 531.505(b), Government Code (page 5, lines 16-17) strike "pharmacies or other".

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Thompson offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) Section 32.024(w), Human Resources Code, is amended to read as follows:

(w) The department shall set a personal needs allowance of not less than \$45 a month and, subject to availability of funds, shall set the personal needs allowance in an amount not less than \$60 a month for a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, personal care facility, ICF-MR facility, or other similar long-term care facility who receives medical assistance. The department may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the department.

(b) This section applies only to a personal needs allowance paid on or after the effective date of this Act.

Representative Delisi moved to table Amendment No. 6.

(Speaker in the chair)

A record vote was requested.

The motion to table was lost by (Record 791): 53 Yeas, 83 Nays, 1 Present, not voting.

Yeas — Anderson; Berman; Branch; Brown, B.; Callegari; Campbell; Chisum; Cook, B.; Corte; Crownover; Davis, J.; Dawson; Delisi; Denny; Eissler; Elkins; Flynn; Gattis; Griggs; Hardcastle; Harper-Brown; Hartnett; Hegar; Hope; Howard; Hupp; Isett; Jackson; Keffer, B.; Keffer, J.; Kolkhorst; Kuempel;

Laubenberg; Madden; McCall; Merritt; Miller; Nixon; Orr; Otto; Paxton; Pitts; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Swinford; Talton; Truitt; Van Arsdale; Wong; Woolley.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Blake; Bohac; Brown, F.; Burnam; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Guillen; Haggerty; Hamilton; Hamric; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Hughes; Hunter; Jones, J.; Keel; King, P.; King, T.; Krusee; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Morrison; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Solis; Strama; Straus; Thompson; Turner; Uresti; Veasey; Villarreal; Vo; West.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons; Taylor; Zedler.

Absent — Baxter; Bonnen; Crabb; Grusendorf; Jones, D.; Mowery.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 791. I intended to vote no.

Kuempel

I was shown voting yes on Record No. 791. I intended to vote no.

Merritt

I was shown voting yes on Record No. 791. I intended to vote no.

T. Smith

(Talton in the chair)

Amendment No. 6 was withdrawn.

Amendment No. 7

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** as follows:

(1) Strike added Section 531.502, Government Code, (page 2, lines 2-9) and substitute the following:

Sec. 531.502. MAXIMUM PRICE. The executive commissioner shall determine by rule the price of a prescription drug charged to an eligible person under the state pharmacy assistance program. The price may not exceed the sum of:

- (1) the discounted acquisition price under the program; and
- (2) a reasonable dispensing fee.

(2) Strike added Section 531.504(d), Government Code, (page 4, lines 13-23) and substitute the following:

(d) The executive commissioner by rule shall specify inventory and recordkeeping requirements for participating pharmacies.

(3) In added Section 531.505(a), Government Code (page 5, line 12-13) strike "an entity designated by the executive commissioner" and substitute "a physician who meets the requirements under Section 563.053, Occupations Code,".

(4) In added Section 531.505(b), Government Code (page 5, lines 16-17) strike "pharmacies or other".

Amendment No. 7 was adopted.

Amendment No. 8

Representative Hupp offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** in SECTION 2 of the bill, in Subsection (d) (2) of that SECTION (House Committee Printing, page 5, line 10), between "rates" and ";", insert "and increase dispensing fees for pharmacies under the Medicaid program to better align those fees with actual dispensing costs".

Amendment No. 8 was adopted.

Amendment No. 9

Representative Gattis offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (house committee printing), Page 7 by adding a new number 7 as follows:

(7) links Medicaid and non-Medicaid data sets, including but not limited to data sets related to Medicaid, TANF, WIC, vital statistics, and other public health programs.

Amendment No. 9 was adopted.

Amendment No. 10

Representative Hupp offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION . ABOLITION OF LONG-TERM CARE LEGISLATIVE OVERSIGHT COMMITTEE; INTERIM REPORT ON LONG-TERM CARE.

(a) On the effective date of this Act, Subchapter O, Chapter 242, Health and Safety Code, is repealed, and the long-term care legislative oversight committee established under that subchapter is abolished.

(b) All records in the custody of the long-term care legislative oversight committee that are related to a duty, function, or activity of the committee shall be transferred on the effective date of this Act to the standing committees of the senate and house of representatives having primary jurisdiction over long-term care services.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Uresti offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) in SECTION 6 of the bill, in amended Section 533.005(a), Government Code (page 17, lines 14-17), by striking Subdivision (13) and substituting the following:

(13) a requirement that the organization consider the use of advanced practice nurses as one type of primary care provider in the organization's provider network; and

Amendment No. 11 was adopted.

Amendment No. 12

Representative J. Davis offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. ABOLITION OF HEALTH AND HUMAN SERVICES TRANSITION LEGISLATIVE OVERSIGHT COMMITTEE. The Health and Human Services Transition Legislative Oversight Committee established under Section 1.22, Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, is abolished on the effective date of this Act.

Amendment No. 12 was adopted.

Amendment No. 13

Representative Truitt offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188**, SECTION 5(a), as follows:

(1) On page 17, line 17, by striking the word "and"

(2) On page 17, line 25, by inserting the following between the word "network" and the period:

; and (15) a requirement that the managed care organization develop, implement and maintain a system for tracking and resolving all provider appeals related to claims payment, including a process that will require:

(A) a tracking mechanism to document the status and final disposition of each provider's claims payment appeal;

(B) the contracting with physicians who are not network providers and who are of the same or related specialty as the appealing physician to resolve claims disputes related to denial on the basis of medical necessity that remain unresolved subsequent to a provider appeal; and

(C) the determination of the physician resolving the dispute to be binding on the managed care organization and provider.

(3) On page 18, line 20, by striking the word "and"

(4) On page 19, line 17, by inserting the following between the word "notifications" and the period:

; and (5) reserve the right to amend the managed care organization's process for resolving provider appeals of denials based on medical necessity to include an independent review process established by commission for final determination of these disputes

Amendment No. 13 was adopted.

Amendment No. 14

Representative Truitt offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) in SECTION 6 of the bill by adding the following appropriately lettered subsection to that SECTION and relettering subsequent subsections of that SECTION accordingly:

() Subchapter A, Chapter 533, Government Code, is amended by adding Section 533.00251 as follows:

Sec. 533.00251. PRESERVATION OF UPPER PAYMENT LIMIT PROVISIONS OF MEDICAID PROGRAM. (a) The commission shall compute any potential reduction or elimination of federal Medicaid payments allowed under the upper payment limit provisions of the Medicaid program that are made to public hospitals or other safety net hospitals that serve recipients that might result from the implementation of a proposal to implement or expand any Medicaid managed care model or arrangement in a health care service region. The commission shall consider the results of the potential reduction or elimination in making decisions regarding the implementation of the proposal.

(b) Before implementing a proposal described by Subsection (a) in a health care service region that might result in a reduction or elimination of federal Medicaid payments allowed under the upper payment limit provisions of the Medicaid program, the commission must submit a report regarding the proposal to the governor, lieutenant governor, speaker of the house of representatives, and presiding officers of each standing committee of the senate and house of representatives having jurisdiction over the Medicaid program.

(c) A report required under Subsection (b) must include:

(1) a description of the proposed implementation or expansion of the Medicaid managed care model or arrangement; and

(2) the potential impact on the federal Medicaid payments allowed under the upper payment limit provisions of the Medicaid program.

Amendment No. 14 was adopted.

Amendment No. 15

Representative McReynolds offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House committee printing) in SECTION 8 of the bill in Subsection (e) (page 25, line 22) following the last sentence, by inserting the following:

In conducting the study, the commission shall solicit stakeholder input and consider information from any other optimization-related projects currently being operated, including the Consolidated Waiver Project authorized by 531.0219, Government Code, former projects including the Mental Retardation Local Authority program, and related information from projects in other states.

Amendment No. 15 was adopted.

Amendment No. 16

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . PHARMACEUTICAL AND THERAPEUTICS COMMITTEE. Section 531.074, Government Code, is amended by adding Subsection (m) to read as follows:

(m) The commission or the commission's agent shall publicly disclose each specific drug recommended for preferred drug list status for each drug class included in the preferred drug list for the Medicaid vendor drug program. The disclosure must be made in writing after the conclusion of committee deliberations that result in recommendations made to the executive commissioner regarding the placement of drugs on the preferred drug list.

Amendment No. 16 was adopted.

Amendment No. 17

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ___. ABOLITION OF INTERAGENCY COUNCIL ON PHARMACEUTICALS BULK PURCHASING. (a) The Interagency Council on Pharmaceuticals Bulk Purchasing is abolished.

(b) Chapter 111, Health and Safety Code, and Sections 431.116(e) and 431.208(d), Health and Safety Code, are repealed.

Amendment No. 17 was adopted.

Amendment No. 18

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ___. PRESCRIPTION DRUGS. Section 531.070(1), Government Code, is amended to read as follows:

(1) Each year the commission shall provide a written report to the legislature and the governor. The report shall cover:

- (1) the cost of administering the preferred drug lists adopted under Section 531.072;
- (2) an analysis of the utilization trends for medical services provided by the state and any correlation to the preferred drug lists;
- (3) an analysis of the effect on health outcomes and results for recipients; ~~and~~
- (4) statistical information related to the number of approvals granted or denied; and
- (5) an analysis of the effect during the preceding year of the implementation of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. No. 108-173) on the preferred drug list adopted under Section 531.072 and the prior authorization requirements under Section 531.073 applicable under the Medicaid vendor drug program.

Amendment No. 18 was adopted.

Amendment No. 19

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. PRESCRIPTION DRUGS. (a) Section 531.070, Government Code, is amended by adding Subsection (n) to read as follows:

(n) Before entering into a supplemental rebate agreement with a manufacturer, the commission shall disclose to the manufacturer any clinical edits or clinical protocols that the commission knows might be imposed during the term of the agreement on a particular class of drugs on the preferred drug list adopted under Section 531.072 that applies under the Medicaid vendor drug program. If the commission does not disclose a clinical edit or clinical protocol as required by this subsection that would otherwise apply to a drug that is manufactured by the manufacturer and that will be provided under the Medicaid vendor drug program, the clinical edit or clinical protocol may not be imposed on the drug during the term of the agreement.

(b) Section 531.070(n), Government Code, as added by this section, applies only to a supplemental rebate agreement that is entered into or renewed on or after the effective date of this Act. A supplemental rebate agreement that is entered into or renewed before the effective date of this Act is governed by the law in effect on the date the agreement was entered into or renewed, and the former law is continued in effect for that purpose.

Amendment No. 19 was adopted.

Amendment No. 20

Representative Gattis offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (house committee printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION __. FRAUD AND ABUSE INVESTIGATIONS. Section 531.1021, Government Code, is amended by amending Subsection (g) and adding Subsections (h) and (i) to read as follows:

(g) Except as provided by Subsection (h), all [A#] information and materials subpoenaed or compiled by the office in connection with an open fraud and abuse investigation are confidential and not subject to disclosure under Chapter 552, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the office or its employees or agents involved in the investigation conducted by the office, except that this information may be disclosed to the office of the attorney general and other law enforcement agencies.

(h) This section may not be interpreted to prohibit the disclosure of information contained in a closed fraud and abuse investigative case file or information contained in a fraud and abuse investigative case file relating to a case that has been resolved by settlement, unless disclosure is otherwise prohibited by law.

(i) For purposes of this section, a fraud and abuse investigation is any formal inquiry of the office of inspector general that:

(1) is based upon a suspicion of fraud, as defined by Section 531.1011, in the provision of health and human services; or

(2) supports a claim by the state or a health and human services agency of fraud in the provision of health and human services.

Amendment No. 20 was adopted.

Amendment No. 21

Representative Hopson offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered section to the bill and renumbering existing sections accordingly:

SECTION __. (a) Sections 481.074(o) and (p), Health and Safety Code, are amended to read as follows:

(o) A pharmacist may dispense a Schedule II controlled substance pursuant to a facsimile copy of an official prescription completed in the manner required by Section 481.075 and transmitted by the practitioner or the practitioner's agent to the pharmacy if:

(1) the prescription is written for:

(A) a Schedule II narcotic or nonnarcotic substance for a patient in a long-term care facility (LTCF), and the practitioner notes on the prescription "LTCF patient";

(B) a Schedule II narcotic product to be compounded for the direct administration to a patient by parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion; or

(C) a Schedule II narcotic substance for a patient with a medical diagnosis documenting a terminal illness or a patient enrolled in a hospice care program certified or paid for by Medicare under Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.), as amended, by Medicaid, or by a hospice

program that is licensed under Chapter 142, and the practitioner or the practitioner's agent notes on the prescription "terminally ill" or "hospice patient"; and

(2) after transmitting the prescription, the prescribing practitioner or the practitioner's agent:

(A) writes across the face of the official prescription "VOID—sent by fax to (name and telephone number of receiving pharmacy)"; and

(B) files the official prescription in the patient's medical records instead of delivering it to the patient [~~promptly complies with Subsection (p)~~].

~~(p) [Not later than the seventh day after the date a prescribing practitioner transmits the facsimile copy of the official prescription to the pharmacy, the prescribing practitioner shall deliver in person or mail the official written prescription to the dispensing pharmacist at the pharmacy where the prescription was dispensed. The envelope of a prescription delivered by mail must be postmarked not later than the seventh day after the date the official prescription was written.] On receipt of the prescription, the dispensing pharmacy shall file the facsimile copy of the prescription [with the official prescription] and shall send information to the director as required by Section 481.075.~~

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2005.

Amendment No. 21 was adopted.

Amendment No. 22

Representatives Hopson, Otto, Menendez, and R. Allen offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. PROVISION OF CERTAIN PRESCRIPTION DRUGS PROHIBITED. Section 32.024, Human Resources Code, is amended by adding Subsection (bb) to read as follows:

(bb) The department may not provide an erectile dysfunction medication under the Medicaid vendor drug program to a person required to register as a sex offender under Chapter 62, Code of Criminal Procedure, to the maximum extent federal law allows the department to deny that medication.

Amendment No. 22 was adopted.

Amendment No. 23

Representative Naishtat offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 32.027, Human Resources Code, is amended by adding Subsection (1) to read as follows:

(1) Subject to appropriations, the department shall assure that a recipient of medical assistance under this chapter may select a licensed psychologist, a licensed marriage and family therapist, as defined by Section 502.002, Occupations Code, a licensed professional counselor, as defined by Section 503.002, Occupations Code, or a licensed master social worker, as defined by Section 505.002, Occupations Code, to perform any health care service or procedure covered under the medical assistance program if the selected person is authorized by law to perform the service or procedure.

SECTION 2. Section 32.027(e), Human Resources Code, as amended by Chapter 1251, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

Amendment No. 23 was adopted.

Amendment No. 24

Representative Naishtat offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. ADMINISTRATIVE AND JUDICIAL REVIEW OF MEDICAID DECISIONS. (a) Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.019 to read as follows:

Sec. 531.019. ADMINISTRATIVE AND JUDICIAL REVIEW OF CERTAIN DECISIONS. (a) In this section, "medical assistance benefits" means benefits provided under the medical assistance program under Chapter 32, Human Resources Code.

(b) The proceedings of a hearing related to a decision regarding medical assistance benefits contested by an applicant for or recipient of the benefits that is conducted by the commission or a health and human services agency to which the commission delegates a function related to the benefits must be recorded electronically. Notwithstanding Section 2001.177, the cost of preparing the record and transcript required to be sent to a reviewing court may not be charged to the applicant for or recipient of the benefits.

(c) Before an applicant for or recipient of medical assistance benefits may appeal a decision of a hearing officer for the commission or a health and human services agency related to those benefits, the applicant or recipient must request an administrative review by an appropriate attorney of the commission or a health and human services agency, as applicable, in accordance with rules of the executive commissioner. Not later than the 15th business day after the date the attorney receives the request for administrative review, the attorney shall complete an administrative review of the decision and notify the applicant or recipient in writing of the results of that review.

(d) Except as provided by this section, Subchapters G and H, Chapter 2001, govern an appeal of a decision made by a hearing officer for the commission or a health and human services agency related to medical assistance benefits brought by an applicant for or recipient of the benefits.

(e) For purposes of Section 2001.171, an applicant for or recipient of medical assistance benefits has exhausted all available administrative remedies and a decision, including a decision under Section 32.035, Human Resources Code, is final and appealable on the date that, after a hearing:

(1) the hearing officer for the commission or a health and human services agency reaches a final decision related to the benefits; and

(2) the appropriate attorney completes an administrative review of the decision and notifies the applicant or recipient in writing of the results of that review.

(f) For purposes of Section 2001.171, an applicant for or recipient of medical assistance benefits is not required to file a motion for rehearing with the commission or a health and human services agency, as applicable.

(g) Judicial review of a decision made by a hearing officer for the commission or a health and human services agency related to medical assistance benefits is under the substantial evidence rule and is instituted by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001.

(h) An appeal described by Subsection (d) takes precedence over all civil cases except workers' compensation and unemployment compensation cases.

(i) The appellee is the commission.

(b) Section 2001.223, Government Code, is amended to read as follows:

Sec. 2001.223. EXCEPTIONS FROM DECLARATORY JUDGMENT, COURT ENFORCEMENT, AND CONTESTED CASE PROVISIONS. Section 2001.038 and Subchapters C through H do not apply to:

(1) except as provided by Section 531.019, the granting, payment, denial, or withdrawal of financial or medical assistance or benefits under service programs that were operated by the former [of the] Texas Department of Human Services before September 1, 2003, and are operated on and after that date by the Health and Human Services Commission or a health and human services agency, as defined by Section 531.001;

(2) action by the Banking Commissioner or the Finance Commission of Texas regarding the issuance of a state bank or state trust company charter for a bank or trust company to assume the assets and liabilities of a financial institution that the commissioner considers to be in hazardous condition as defined by Section 31.002(a) or 181.002(a), Finance Code, as applicable;

(3) a hearing or interview conducted by the Board of Pardons and Paroles or the pardons and paroles division of the Texas Department of Criminal Justice relating to the grant, rescission, or revocation of parole or other form of administrative release; or

(4) the suspension, revocation, or termination of the certification of a breath analysis operator or technical supervisor under the rules of the Department of Public Safety.

(c) The changes in law made by this section apply only to an appeal of a final decision by the Health and Human Services Commission or a health and human services agency to which the commission delegates a function related to medical assistance benefits under Chapter 32, Human Resources Code, that is

rendered on or after the effective date of this Act. A final decision rendered by the commission or a health and human services agency before the effective date of this Act is governed by the law in effect on the date the decision was rendered, and the former law is continued in effect for that purpose.

Amendment No. 24 was adopted.

Amendment No. 25

Representative Isett offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** as follows:

On page 18, line 15 add or is covered by another liable third party insurer. after the word program.

On page 18, line 18 between the words "payments" and "and" insert payments from other liable third parties.

Amendment No. 25 was withdrawn.

Amendment No. 26

Representatives Hughes and Peña offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) in SECTION 5(a) of the bill by striking added Section 531.083, Government Code (page 11, line 23, through page 12, line 15), and substituting the following:

Sec. 531.083. MEDICAID LONG-TERM CARE SYSTEM. The commission shall ensure that the Medicaid long-term care system provides the broadest array of choices possible for recipients while ensuring that the services are delivered in a manner that is cost-effective and makes the best use of available funds. The commission shall also make every effort to improve the quality of care for recipients of Medicaid long-term care services by:

(1) evaluating the need for expanding the provider base for consumer-directed services and, if the commission identifies a demand for that expansion, encouraging area agencies on aging, independent living centers, and other potential long-term care providers to become providers through contracts with the Department of Aging and Disability Services;

(2) ensuring that each recipient who resides in a nursing facility and the person responsible for making health care decisions for the recipient are provided information about end-of-life care options and the importance of planning for end-of-life care, including the need for an advanced directive, as defined by Section 166.002, Health and Safety Code;

(3) developing policies to encourage a recipient who resides in a nursing facility to receive treatment at that facility whenever possible, while ensuring that the recipient receives an appropriate continuum of care; and

(4) ensuring that each recipient who resides in a nursing facility receives Medicaid long-term care coverage for the cost of a transfer to a willing provider and continued available life-sustaining treatment until the transfer is completed and, notwithstanding Sections 166.045 and 166.046, Health and Safety Code, is provided available life-sustaining treatment, if:

(A) the recipient's attending physician or nursing facility decides to deny the treatment under Section 166.045 or 166.046, Health and Safety Code;

(B) the recipient, the recipient's advanced directive, as defined by Section 166.002, Health and Safety Code, or the person responsible for making health care decisions for the recipient directs that the treatment be provided; and

(C) denial of the treatment, in reasonable medical judgment, would likely result in the recipient's death.

Amendment No. 26 was withdrawn.

Amendment No. 27

Representative Isett offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** as follows:

On page 18, line 15 add or is covered by another liable third party insurer. after the word program.

On page 18, line 18 between the words "payments" and "and" insert payments from other liable third parties.

Amendment No. 27 was adopted.

Amendment No. 28

Representatives Hughes and Peña offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House Committee Printing) in SECTION 5(a) of the bill by striking added Section 531.083, Government Code (page 11, line 23, through page 12, line 15), and substituting the following:

Sec. 531.083. MEDICAID LONG-TERM CARE SYSTEM. The commission shall ensure that the Medicaid long-term care system provides the broadest array of choices possible for recipients while ensuring that the services are delivered in a manner that is cost-effective and makes the best use of available funds. The commission shall also make every effort to improve the quality of care for recipients of Medicaid long-term care services by:

(1) evaluating the need for expanding the provider base for consumer-directed services and, if the commission identifies a demand for that expansion, encouraging area agencies on aging, independent living centers, and other potential long-term care providers to become providers through contracts with the Department of Aging and Disability Services;

(2) ensuring that each recipient who resides in a nursing facility and the person responsible for making health care decisions for the recipient are provided information about end-of-life care options and the importance of planning for end-of-life care, including the need for an advanced directive, as defined by Section 166.002, Health and Safety Code;

(3) developing policies to encourage a recipient who resides in a nursing facility to receive treatment at that facility whenever possible, while ensuring that the recipient receives an appropriate continuum of care; and

(4) ensuring that each recipient who resides in a nursing facility receives Medicaid long-term care coverage for the cost of a transfer to a willing provider and continued available life-sustaining treatment until the transfer is completed and, notwithstanding Sections 166.045 and 166.046, Health and Safety Code, is provided available life-sustaining treatment, if:

(A) the recipient's attending physician or nursing facility decides to deny the treatment under Section 166.045 or 166.046, Health and Safety Code;

(B) the recipient, the recipient's advanced directive, as defined by Section 166.002, Health and Safety Code, or the person responsible for making health care decisions for the recipient directs that the treatment be provided; and

(C) denial of the treatment, in reasonable medical judgment, would likely result in the recipient's death.

(Martinez in the chair)

Amendment No. 28 was adopted.

Amendment No. 29

Representative Thompson offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) Section 32.024(w), Human Resources Code, is amended to read as follows:

(w) The department shall set a personal needs allowance of not less than \$45 a month and, subject to availability of funds, shall set the personal needs allowance in an amount not less than \$60 a month for a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, personal care facility, ICF-MR facility, or other similar long-term care facility who receives medical assistance. The department may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the department.

(b) This section applies only to a personal needs allowance paid on or after the effective date of this Act.

Amendment No. 30

Representative Thompson offered the following amendment to Amendment No. 29:

Amend the Thompson amendment to **CSSB 1188** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) Section 32.024(w), Human Resources Code, is amended to read as follows:

(w) The department shall set a personal needs allowance of not less than \$45 a month and, shall set the personal needs allowance in an amount not less than \$60 a month for a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, personal care facility, ICF-MR facility, or other similar long-term care facility who receives medical assistance. The department may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the department.

(b) This section applies only to a personal needs allowance paid on or after the effective date of this Act.

Amendment No. 30 was adopted.

A record vote was requested.

Amendment No. 29, as amended, was adopted by (Record 792): 139 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Leibowitz; Luna; Madden; Martinez Fischer; Martinez(C); McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Solis; Strama; Straus; Swinford; Talton; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley.

Nays — Hope.

Present, not voting — Mr. Speaker.

Absent, Excused — Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons; Taylor; Zedler.

Absent — Laubenberg; Smithee.

STATEMENT OF VOTE

I was shown voting no on Record No. 792. I intended to vote yes.

Hope

Amendment No. 31

Representative Gattis offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. CONTINUOUS ELIGIBILITY. Section 32.0261, Human Resources Code, is amended to read as follows:

Sec. 32.0261. CONTINUOUS ELIGIBILITY. The department shall adopt rules in accordance with 42 U.S.C. Section 1396a(e)(12), as amended, to provide for a period of continuous eligibility for a child under 19 years of age who is determined to be eligible for medical assistance under this chapter. The rules shall provide that the child remains eligible for medical assistance, without additional review by the department and regardless of changes in the child's resources or income, until the earlier of:

- (1) the end of the six-month period following ~~[first anniversary of]~~ the date on which the child's eligibility was determined; or
- (2) the child's 19th birthday.

Amendment No. 31 was adopted.

Amendment No. 32

Representative Villarreal offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered section:

Section __. The speaker and lieutenant governor shall create a joint interim committee to study and make recommendations to the legislature relating to how Medicaid and other supportive medical care services can be more effectively delivered through regional planning involving all relevant stakeholders in rural, border, and urban counties and the surrounding rural or suburban communities. Specifically, the study should: (1) identify incentives and resources necessary to promote personal responsibility and accountability, encourage preventive care, and expand use of available primary care services; (2) identify cost-effective technological innovations to improve health care access and coordination, such as telemedicine or automated medical records; (3) improve access and availability to primary care services; (4) improve access to secondary and tertiary care in rural communities; (5) identify how health care services can be improved through collaboration across funding streams, such as the Children's Health Insurance Program, Medicaid, and private insurance; (6) make recommendations to improve the capacity of public health entities in Texas to comply with the Centers for Disease Control National Public Health Performance Standards; (7) identify successful strategies and recommend incentives to develop multicounty public health entities authorized to collaborate to ensure that the essential public health services as authorized in Section 121.002, Health and Safety Code, are available to all Texans; (8) evaluate the role of existing regional public health entities and make recommendations to optimize their capacity to assume

responsibility for the foregoing purposes or create additional regional entities as needed; and (9) recommend appropriate funding levels needed to implement the committee's recommendations.

Amendment No. 32 was adopted.

Amendment No. 33

Representatives Luna and Woolley offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION ____. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.0248 to read as follows:

Sec. 32.0248. DEMONSTRATION PROJECT FOR WOMEN'S HEALTH CARE SERVICES. (a) The department shall establish a five-year demonstration project through the medical assistance program to expand access to preventive health and family planning services for women. A woman eligible under Subsection (b) to participate in the demonstration project may receive appropriate preventive health and family planning services, including:

(1) medical history recording and evaluation;

(2) physical examinations;

(3) health screenings, including screening for:

(A) diabetes;

(B) cervical cancer;

(C) breast cancer;

(D) sexually transmitted diseases;

(E) hypertension;

(F) cholesterol; and

(G) tuberculosis;

(4) counseling and education on contraceptive methods, except for counseling and education regarding emergency contraception;

(5) provision of contraceptives, except for the provision of emergency contraception;

(6) risk assessment; and

(7) referral of medical problems to appropriate providers that are entities or organizations that do not perform or promote elective abortions or contract or affiliate with entities that perform or promote elective abortions.

(b) A woman is eligible to participate in the demonstration project if the woman is at least 18 years of age and:

(1) has a net family income that is at or below 185 percent of the federal poverty level;

(2) participates in or receives benefits under any of the following:

(A) the medical assistance program;

(B) the financial assistance program under Chapter 31;

(C) the nutritional assistance program under Chapter 33;

(D) the Supplemental Food Program for Women, Infants and

Children; or

(E) another program administered by the state that:

(i) requires documentation of income; and

(ii) restricts eligibility to persons with income equal to or less than the income eligibility guidelines applicable to the medical assistance program;

(3) is presumed eligible for one of the programs listed in Subdivision (2) pending completion of that program's eligibility process; or

(4) is a member of a family that contains at least one person who participates in or receives benefits under one of the programs listed in Subdivision (2).

(c) The department shall ensure that the standards of care provided to a woman participating in the demonstration project are consistent with the requirements of law and current best practices for provision of public health services.

(d) The department shall develop procedures for determining and certifying eligibility for services under the demonstration project at the point of service delivery using integrated procedures that minimize duplication of effort by providers, the department, and other state agencies. The department may not use a procedure that would require a cost in excess of 10 percent of the total costs of actual preventive health and family planning services provided under the demonstration project. The eligibility procedure may provide for expedited determination and certification using a simplified form requiring only family income and family size.

(e) The department shall compile a list of potential funding sources a woman participating in the demonstration project may be able to use to help pay for treatment for health problems:

(1) identified using services provided under the demonstration project; and

(2) for which the woman is not eligible to receive treatment under the medical assistance program or the demonstration project.

(f) Providers of services under the demonstration project shall comply with requests made by the department for information necessary for the department to:

(1) make efficient use of money spent for the operation and administration of the demonstration project;

(2) report and provide information required by federal law; and

(3) compile the report required by Subsection (g).

(g) Not later than December 1 of each even-numbered year, the department shall submit a report to the legislature regarding the department's progress in establishing and operating the demonstration project.

(h) The department shall ensure the money spent under the demonstration project, regardless of the funding source, is not used to perform or promote elective abortions. The department, for the purpose of the demonstration project, may not contract with entities that perform or promote elective abortions or are affiliates of entities that perform or promote elective abortions.

(i) This section expires September 1, 2011.

SECTION _____. If before implementing any provision of Section 32.048, Human Resources Code, as added by this Act, a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION _____. Not later than September 1, 2006, the state agency responsible for implementing the demonstration project required by Section 32.0248, Human Resources Code, as added by this Act, shall implement the demonstration project.

Amendment No. 33 was adopted.

Amendment No. 34

Representative Miller offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House committee printing) by adding the following SECTIONS to the bill, appropriately numbered, and renumbering subsequent SECTIONS accordingly:

SECTION __. STATE PHARMACY ASSISTANCE PROGRAM. Chapter 531, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. STATE PHARMACY ASSISTANCE PROGRAM

Sec. 531.501. STATE PHARMACY ASSISTANCE PROGRAM. (a) The commission may develop and implement a state pharmacy assistance program that provides prescription drug discounts to eligible persons and is a state pharmacy assistance program for purposes of 42 U.S.C. Section 1396r-8(c)(1)(C).

(b) The state pharmacy assistance program may only be funded with state general revenue funds or local funds. This subsection applies only to the provision of prescription drug discounts under the state pharmacy assistance program, and does not affect the sources of funding permissible for other benefits provided to eligible persons under programs described by Section 531.503.

(c) The commission may contract with a private entity to negotiate on behalf of the commission for discounted prescription drug acquisition prices with manufacturers and labelers, as those terms are defined by Section 531.070.

(d) The commission may agree to pay a private contractor a percentage of the gross purchases under the program. Any payment shall be incorporated into the sales price.

Sec. 531.502. MAXIMUM PRICE. The price of a prescription drug charged to an eligible person under the program may not exceed the sum of:

(1) the discounted acquisition price under the program; and

(2) a dispensing fee in an amount not to exceed 115 percent of the dispensing fee paid for providing the drug under the vendor drug program.

Sec. 531.503. ELIGIBILITY. (a) A person is eligible for prescription drug benefits under the state pharmacy assistance program if the person is:

(1) qualified to receive services under Chapter 31 or Subchapter B, Chapter 61, Health and Safety Code; or

(2) qualified to receive services from a community mental health or mental retardation center established under Subchapter A, Chapter 534, Health and Safety Code.

(b) The commissioner may expand eligibility for prescription drug benefits under the state pharmacy assistance program to persons who are qualified to receive services under a program other than those listed in Subsection (a), provided that the other program:

(1) is developed by the state specifically for the benefit of disabled, indigent, low-income, elderly, or other financially vulnerable persons;

(2) is funded using state funds and not federal funds;

(3) provides payments directly to service providers;

(4) provides only a pharmaceutical benefit or a pharmaceutical benefit in conjunction with other medical benefits or services;

(5) prohibits the diversion, resale, or transfer of benefits reimbursed under the state pharmacy assistance program to persons who are not beneficiaries of that program; and

(6) does not violate any applicable nondiscrimination provisions under federal law.

Sec. 531.504. PARTICIPATING WHOLESALERS AND PHARMACIES.

(a) The commission or its contractor shall contract with each wholesaler that:

(1) elects to participate in the state pharmacy assistance program; and

(2) satisfies the commission's participation requirements.

(b) A contract between the commission or its contractor and a participating wholesaler must require the wholesaler to:

(1) provide prescription drugs available through the program to pharmacies that voluntarily elect to participate in the program at a price not to exceed the sum of:

(A) the discounted acquisition cost under the program;

(B) a reasonable delivery fee in an amount negotiated by the wholesaler and the commission or its contractor, which fee may vary based on the monthly volume of prescription drugs provided by the wholesaler and the number of required weekly deliveries; and

(C) a reasonable percentage of the gross purchases approved by the commission as provided by Section 531.501(d);

(2) meet service levels specified in the contract;

(3) provide next-day delivery service on all orders under the program to participating pharmacies;

(4) provide software and data interface capacity to participating pharmacies as necessary to enable participating pharmacies to comply with Subsection (d); and

(5) participate in the program on an ongoing basis for the period specified in the contract.

(c) The commission or its contractor shall collect utilization information from each participating wholesaler as necessary to administer the program, and shall protect the confidentiality of any information obtained under this subsection that is confidential under state or federal law, rule, or regulation.

(d) The executive commissioner by rule shall require a participating pharmacy to:

(1) maintain a separate inventory of prescription drugs obtained by the pharmacy under the program or segregate those drugs from the pharmacy's other prescription drug stock; and

(2) maintain separate records of acquisition and disposition of prescription drugs obtained by the pharmacy under the program, and ensure that all computer records regarding those drugs are readily available on the request of the commission or its contractor.

(e) A participating pharmacy or wholesaler may not resell or otherwise transfer a prescription drug obtained under the program to:

(1) a pharmacy that is not participating in the program; or

(2) a person who is not an eligible program participant.

(f) If the commission, after notice and opportunity for a hearing, determines that a participating pharmacy or wholesaler violated Subsection (e), the pharmacy or wholesaler is liable to the manufacturer of the prescription drugs for an amount equal to the difference between:

(1) the retail price of the drug at the time of the resale or transfer in violation of Subsection (e); and

(2) the price at which the drug was obtained by the pharmacy or wholesaler under the program.

Sec. 531.505. ACCESS TO PROGRAM BENEFITS. (a) An eligible person is entitled to obtain a prescription drug dispensed under this subchapter from an entity designated by the executive commissioner or from a pharmacy that voluntarily participates in the program.

(b) The commission shall maintain an electronic database on a website listing the names and addresses of all pharmacies or other entities participating in the program.

(c) The commission or its contractor shall engage in outreach activities to publicize the availability of discounted prescription drug prices under the program and to maximize enrollment in the program. The commission shall establish simplified procedures for enrolling eligible persons.

Sec. 531.506. CERTAIN DISPUTES OR DISCREPANCIES. (a) A dispute or discrepancy in the amount negotiated under Section 531.501 must be resolved using the process established by this section.

(b) The commission may hire an independent auditor acceptable to all affected parties to perform an audit at the commission's expense if there is a dispute or discrepancy in favor of a manufacturer or labeler relating to the amount of a discount for a prescription drug provided by the manufacturer or labeler. If the audit does not resolve the dispute or discrepancy, the manufacturer or labeler shall:

(1) provide justification for the dispute or discrepancy that is satisfactory to the commission; or

(2) pay the additional amount due.

(c) A manufacturer or labeler may hire an independent auditor acceptable to all affected parties to perform an audit at the expense of the manufacturer or labeler if there is a dispute or discrepancy in favor of the state relating to the amount of the discount for a prescription drug provided by the manufacturer or labeler. If the audit does not resolve the dispute or discrepancy, the commission shall:

(1) provide justification for the dispute or discrepancy that is satisfactory to the manufacturer or labeler; or

(2) require participating entities to refund to the manufacturer or labeler the amount due.

(d) A party that is not satisfied with the resolution of a dispute or discrepancy under Subsection (b) or (c) may request in writing a hearing before the State Office of Administrative Hearings. The party must include supporting documentation with the request for a hearing.

Sec. 531.507. RULEMAKING. The executive commissioner may adopt rules as necessary to administer this subchapter.

Sec. 531.508. ANNUAL REPORT. Not later than January 1 of each year, the commission shall submit a report to the legislature on the commission's activities under this subchapter. The report must include the number of persons enrolled in the state pharmacy assistance program and information regarding the financial condition of the program.

Sec. 531.509. IMPLEMENTATION OF PROGRAM. (a) The commission shall fully implement this subchapter and make discounted drug prices available to eligible persons in accordance with the program described by this subchapter only if the commission determines that adequate voluntary discounts negotiated under Section 531.501 are available.

(b) If the commission does not fully implement this subchapter, the commission may adopt preferred drug lists and impose prior authorization requirements, as authorized by Sections 531.072 and 531.073, for programs that provide prescription drugs to persons described by Section 531.503(a).

SECTION __. Sections 531.070(h) and (j), Government Code, are amended to read as follows:

(h) Subject to Subsection (i), the commission shall negotiate with manufacturers and labelers, including generic manufacturers and labelers, to obtain supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8 and its subsequent amendments; and

(2) the child health plan program~~[- and~~
~~[(3) any other state program administered by the commission or a health and human services agency, including community mental health centers and state mental health hospitals].~~

(j) A manufacturer or labeler that sells prescription drugs in this state may voluntarily negotiate with the commission and enter into an agreement to provide supplemental rebates for prescription drugs provided under:

(1) the Medicaid vendor drug program in excess of the Medicaid rebates required by 42 U.S.C. Section 1396r-8 and its subsequent amendments;
and

(2) the child health plan program[~~;~~ and

~~[(3) any other state program administered by the commission or a health and human services agency, including community mental health centers and state mental health hospitals].~~

SECTION __. Section 531.072, Government Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsection (a), the commission may adopt preferred drug lists under this section for a program that serves persons described by Section 531.503(a) only if the commission cannot obtain adequate voluntary discounts under Subchapter M, Chapter 531, to permit full implementation of that subchapter.

SECTION __. Section 531.073, Government Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsection (a), the commission may require prior authorization under this section for a program that serves persons described by Section 531.503(a) only if the commission cannot obtain adequate voluntary discounts under Subchapter M, Chapter 531, to permit full implementation of that subchapter.

Amendment No. 34 - Point of Order

Representative Hilderbran raised a point of order against further consideration of Amendment No. 34 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The chair sustained the point of order.

The ruling precluded further consideration of Amendment No. 34.

Amendment No. 35

Representative Uresti offered the following amendment to **CSSB 1188**:

Amend **CSSB 1188** (House committee printing) by adding the following appropriately numbered Section to the bill and renumbering subsequent Sections of the bill as appropriate:

SECTION __. Chapter 159, Occupations Code, is amended by adding Section 159.010 to read as follows:

Sec. 159.010. NOTICE OF BENEFITS UNDER STATE CHILD HEALTH PLAN. A physician who provides Medicaid health care services to a pregnant woman shall inform the woman of the health benefits for which the woman or the woman's child may be eligible under the state child health plan under Chapter 62, Health and Safety Code.

Amendment No. 35 was adopted.

(Menendez in the chair)

Amendment No. 14 - Vote Reconsidered

Representative Truitt moved to reconsider the vote by which Amendment No. 14 was adopted.

The motion to reconsider prevailed.

Amendment No. 14 was withdrawn.

Amendment No. 36

Representative Truitt offered the following amendment to **CSSB 1188**:

AMEND CSSB 1188 AS FOLLOWS:

Page 12, strike lines 1 and 2 and substitute the following:

(b) Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.0071, 533.0072 and 533.0073 to read as follows:

Page 14, following line 18, add a new Section 533.0073 to read as follows:

Sec. 533.0073. PRESERVATION OF UPPER LIMIT PROVISIONS OF THE MEDICAID PROGRAM. The Health and Human Services Commission shall not implement a form of Medicaid Managed Care in a service area which results in the reduction or elimination of allowable federal Medicaid payments under the upper payment limit provisions of the Medicaid program to public hospitals or other safety net hospitals which serve the Medicaid population.

Amendment No. 36 was adopted.

CSSB 1188, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown, Laubenberg, and Phillips recorded voting no.)

**HR 1842 - ADOPTED
(by Riddle and Hamric)**

Representative Riddle moved to suspend all necessary rules to take up and consider at this time **HR 1842**.

The motion prevailed.

The following resolution was laid before the house:

HR 1842, In memory of Curtis J. Cook of Harris County.

HR 1842 was read and was unanimously adopted by a rising vote.

On motion of Representative Hamric, the names of all the members of the house were added to **HR 1842** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Riddle who introduced the family of Curtis J. Cook.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSSB 1863 ON SECOND READING
(Pitts - House Sponsor)

CSSB 1863, A bill to be entitled An Act relating to certain fiscal matters affecting governmental entities.

CSSB 1863 was read second time on May 22, postponed until May 23, postponed until 10 a.m. today, and was again postponed until this time.

Amendment No. 1 - Vote Reconsidered

Representative Chisum moved to reconsider the vote by which Amendment No. 1 was adopted.

The motion to reconsider prevailed.

Amendment No. 47

Representative Chisum offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Chisum and Pitts to **CSSB 1863** by striking lines 3 through 23 of the amendment and substituting the following:

(1) Strike all ARTICLES and SECTIONS of the bill except for ARTICLE 6 (page 26, line 24 of the bill through page 28, line 4 of the bill) and ARTICLE 14 (page 94, lines 16-23 of the bill).

(2) Renumber existing ARTICLE 6, SECTION 6.01, SECTION 6.02, SECTION 6.03, ARTICLE 14, and SECTION 14.01 accordingly.

Amendment No. 47 was withdrawn.

Amendment No. 1 was adopted.

Amendment No. 17 - Vote Reconsidered

Representative Chisum moved to reconsider the vote by which Amendment No. 17 was adopted.

The motion to reconsider prevailed.

Amendment No. 17 was withdrawn.

AMENDMENT NO. 17 - REASON FOR VOTE

I registered a "no" vote in the Journal when this ill-advised amendment was originally placed on the bill. The house should cease trying to play games with the comptroller's authority.

Keel

(Speaker in the chair)

CSSB 1863 - MOTION FOR PREVIOUS QUESTION

Representative Hartnett moved the previous question on passage to third reading of **CSSB 1863**.

The motion was seconded.

The motion prevailed. (Coleman, Y. Davis, Dunnam, Gonzales, Luna, P. Moreno, Naishtat, Thompson, and Veasey recorded voting no.)

A record vote was requested.

CSSB 1863, as amended, was passed to third reading by (Record 793): 92 Yeas, 42 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dukes; Edwards; Eiland; Eissler; Elkins; Escobar; Farrar; Flynn; Frost; Geren; Gonzales; Gonzalez Toureilles; Goodman; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Hegar; Hill; Hochberg; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, J.; Kolkhorst; Krusee; Kuempel; Leibowitz; Madden; McCall; McReynolds; Merritt; Miller; Moreno, P.; Mowery; Nixon; Orr; Otto; Pickett; Pitts; Puente; Quintanilla; Reyna; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Truitt; Turner; Uresti; West; Wong; Woolley.

Nays — Anchia; Bohac; Burnam; Coleman; Davis, Y.; Deshotel; Dunnam; Farabee; Gallego; Gattis; Harper-Brown; Hartnett; Herrero; Hilderbran; Homer; Hopson; Jones, J.; Keffer, B.; King, P.; King, T.; Laubenberg; Luna; Martinez; Martinez Fischer; McClendon; Menendez; Morrison; Naishtat; Noriega, M.; Oliveira; Paxton; Peña; Phillips; Raymond; Riddle; Ritter; Rodriguez; Taylor; Thompson; Van Arsdale; Veasey; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons; Zedler.

Absent — Dutton; Flores; Goolsby; Haggerty; Hope; Hughes; Laney; Olivo; Vo.

STATEMENTS OF VOTE

- I was shown voting yes on Record No. 793. I intended to vote no. Baxter
- I was shown voting yes on Record No. 793. I intended to vote no. Bonnen
- I was shown voting yes on Record No. 793. I intended to vote no. Branch
- I was shown voting yes on Record No. 793. I intended to vote no. Castro
- I was shown voting yes on Record No. 793. I intended to vote no. Dukes

I was shown voting yes on Record No. 793. I intended to vote no.

Gonzales

I was shown voting yes on Record No. 793. I intended to vote no.

Gonzalez Toureilles

When Record No. 793 was taken, I was in the house but away from my desk. I would have voted yes.

Goolsby

When Record No. 793 was taken, I was in the house but away from my desk. I would have voted yes.

Haggerty

I was shown voting yes on Record No. 793. I intended to vote no.

D. Jones

I was shown voting yes on Record No. 793. I intended to vote no.

Leibowitz

I was shown voting no on Record No. 793. I intended to vote yes.

Luna

I was shown voting yes on Record No. 793. I intended to vote no.

Merritt

I was shown voting yes on Record No. 793. I intended to vote no.

Miller

When Record No. 793 was taken, I was in the house but away from my desk. I would have voted no.

Olivo

I was shown voting yes on Record No. 793. I intended to vote no.

Straus

SB 447 ON SECOND READING
(Madden - House Sponsor)

SB 447, A bill to be entitled An Act relating to the sale of tax receivables by a local government.

SB 447 was read second time on May 16, postponed until May 17, postponed until May 23, postponed until 5:30 p.m. May 23, and was again postponed until this time.

Representative Madden moved to postpone consideration of **SB 447** until June 1.

The motion prevailed.

CSSB 1879 ON SECOND READING
(Puente - House Sponsor)

CSSB 1879, A bill to be entitled An Act relating to the creation of special districts for improvements in certain counties, including authority to acquire, construct, and improve water, wastewater, and drainage improvements; providing authority to impose a tax and issue bonds.

CSSB 1879 was read second time on May 22, postponed until May 23, and was again postponed until 12 p.m. today.

CSSB 1879 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **CSSB 1879** under Rule 4, Section 20 of the House Rules on the grounds that sworn statements of those who testified were incorrectly completed.

The speaker sustained the point of order.

MAJOR STATE CALENDAR
(consideration continued)

SB 867 ON SECOND READING
(Otto - House Sponsor)

SB 867, A bill to be entitled An Act relating to the application of the motor vehicle sales tax emissions reduction surcharge on certain recreational vehicles.

SB 867 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

SB 984 ON SECOND READING
(Uresti - House Sponsor)

SB 984, A bill to be entitled An Act relating to a feasibility study regarding the provision of financial incentives to individuals who undergo training for child protective services.

SB 984 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

CSSB 1255 ON SECOND READING
(Geren - House Sponsor)

CSSB 1255, A bill to be entitled An Act relating to the number of certain alcoholic beverage permits and licenses that may be issued for a single location.

Amendment No. 1

Representative Geren offered the following amendment to **CSSB 1255**:

Amend **CSSB 1255** by adding the following:

Section 1.04, Alcoholic Beverage Code, is amended by amending Subdivision (18) to read as follows:

(18) "Original package," as applied to beer, means a container holding ~~[one barrel, one half barrel, one quarter barrel, one eighth barrel of]~~ beer in bulk, or any box, crate, carton, or other device used in packing beer that is contained in bottles or other containers.

Section 101.44, Alcoholic Beverage Code is repealed.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Geren offered the following amendment to **CSSB 1255**:

Amend **CSSB 1255** by adding the following:

Section 103.07, Alcoholic Beverage Code, is amended to read as follows:

Sec. 103.07. BEVERAGE OF ILLICIT MANUFACTURE OR UNFIT FOR CONSUMPTION. (a) The commission may not sell ~~[but may destroy]~~ alcoholic beverages seized by a peace officer, as provided in Section 103.03, that are unfit for public consumption or are of illicit manufacture.

(b) Alcoholic beverages are unfit for public consumption if:

(1) the manufacturer or wholesaler of the beverages determines that the beverages are inappropriate for sale to a consumer;

(2) the beverages are damaged; or

(3) the code date affixed by the manufacturer to the beverages has expired.

(c) If the commission determines that seized alcoholic beverages are unfit for public consumption or are of illicit manufacture, the commission shall destroy the alcoholic beverages.

SECTION 26. Section 103.22, Alcoholic Beverage Code, is amended to read as follows:

Sec. 103.22. COSTS OF FORFEITURE SUITS. The commission is entitled to recover from the proceeds of a forfeiture sale ~~[shall pay]~~ all costs of a forfeiture suit brought under this chapter, including:

(1) all usual court costs, including the cost of serving process;

(2) expenses of the forfeiture sale; and

(3) reasonable attorney's fees ~~[suits out of the confiscated liquor fund or any other fund available to the commission for that purpose].~~

Amendment No. 2 was adopted.

CSSB 1255, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Flynn recorded voting no.)

CSSB 47 ON SECOND READING

(Delisi - House Sponsor)

CSSB 47, A bill to be entitled An Act relating to the Medicaid fraud reduction pilot program.

(J. Keffer in the chair)

CSSB 47 - LAID ON THE TABLE SUBJECT TO CALL

Representative Delisi moved to lay **CSSB 47** on the table subject to call.

The motion prevailed.

SB 1704 ON SECOND READING

(Hartnett, Gonzales, Solis, and Alonzo - House Sponsors)

SB 1704, A bill to be entitled An Act relating to jury service.

Amendment No. 1

Representative Hartnett offered the following amendment to **SB 1704**:

Amend **SB 1704** (House Committee Printing) as follows:

(1) In SECTION 2 of the bill, in added Subsection (c), Section 61.0015, Government Code, (page 2, line 2), strike "judicial fund" and substitute "jury service fund".

(2) In SECTION 5 of the bill, in added Subsection (b), Article 102.0045, Code of Criminal Procedure (page 4, line 11), strike "judicial fund" and substitute "jury service fund".

(3) In SECTION 5 of the bill, immediately following added Subsection (b), Article 102.0045, Code of Criminal Procedure (page 4, between lines 11-12), insert the following:

(c) The jury service fund is created in the state treasury. If, at any time, the unexpended balance of the jury service fund exceeds \$10 million, the comptroller shall transfer the amount in excess of \$10 million to the fair defense account.

(d) Fees deposited in the jury service fund under this section are exempt from the application of Section 403.095, Government Code.

Amendment No. 1 was adopted.

SB 1704, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Anderson, Berman, Flynn, Keel, Talton, and Wong recorded voting no; Laney recorded voting present, not voting.)

SB 1570 ON SECOND READING

(Isett - House Sponsor)

SB 1570, A bill to be entitled An Act relating to the rate of interest on certain tax refunds.

Amendment No. 1

Representative Isett offered the following amendment to **SB 1570**:

Amend **SB 1570** (House committee report) by striking SECTION 1 of the bill (page 1, line 4, through page 2, line 15) and substituting a new SECTION 1 to read as follows:

SECTION 10. Section 111.064, Tax Code, is amended by amending Subsections (a), (c), and (f) and adding Subsection (c-1) to read as follows:

(a) Except as otherwise provided by this section, for a refund under this chapter [~~Subsections (b) and (c), in a comptroller's final decision on a claim for refund or in an audit~~], interest is at the rate that is the lesser of the annual rate of interest earned on deposits in the state treasury during December of the previous calendar year, as determined by the comptroller, or the rate set in Section 111.060, and accrues on the amount found to be erroneously paid for a period:

(1) beginning on the later of 60 days after the date of payment or the due date of the tax report; and

(2) ending on, as determined by the comptroller, either the date of allowance of credit on account of the comptroller's final decision or audit or a date not more than 10 days before the date of the refund warrant.

(c) For a refund claimed before September 1, 2005, and granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060 [~~granted for a report period due on or after January 1, 2000, the rate of interest is the rate set in Section 111.060~~].

(c-1) A refund, without regard to the date claimed, for a report period due before January 1, 2000, does not accrue interest.

(f) A local revenue fund is not subject to Subsections (a)-(c-1) [~~(a)-(c)~~]. In this subsection, "local revenue fund" includes a court cost, a fee, a fine, or a similar charge collected by a municipality, a county, or a court of this state and remitted to the comptroller.

Amendment No. 1 was adopted.

SB 1570, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1408 ON SECOND READING

(B. Cook - House Sponsor)

SB 1408, A bill to be entitled An Act relating to wage claim disputes.

SB 1408 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering their votes are as follows: Herrero and Leibowitz recorded voting no.)

CSSB 1189 ON SECOND READING

(Hartnett, Gonzales, Alonzo, Casteel, and Dawson - House Sponsors)

CSSB 1189, A bill to be entitled An Act relating to the creation, composition, jurisdiction, and procedure of certain judicial districts, to the selection of a local administrative district judge for certain counties, to the juvenile board in certain counties, and to the district courts in certain counties.

Amendment No. 1

On behalf of Representative Solis, Representative Hartnett offered the following amendment to **CSSB 1189**:

Amend **CSSB 1189** by striking SECTION 4 of the bill (House Committee Printing, page 4, line 18, through page 6, line 20) and substitute the following:

SECTION 4. (a) Subsections (b) and (d), Section 24.205, Government Code, are amended to read as follows:

(b) The 103rd, 107th, and 138th district courts have concurrent jurisdiction in Cameron County. The 103rd and 138th district courts have concurrent jurisdiction in Willacy County.

(d) The judge [judges] of the 103rd District Court [and 107th district courts] need not impanel grand juries except in cases of emergency.

(b) The heading to Section 24.209, Government Code, is amended to read as follows:

Sec. 24.209. 107TH JUDICIAL DISTRICT (CAMERON COUNTY [~~AND WILLACY COUNTIES~~]).

(c) Section 24.209, Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The 107th Judicial District is composed of Cameron County [and Willacy counties]. The court shall give preference to criminal cases.

(c) The judge of [Section 24.205, relating to the 103rd District Court, contains provisions applicable to both that court and] the 107th District Court need not impanel grand juries except in cases of emergency.

(d) The 103rd, 107th, and 138th district courts have concurrent jurisdiction in Cameron County. The 103rd and 138th district courts have concurrent jurisdiction in Willacy County.

(d) Section 24.240(d), Government Code, is amended to read as follows:

(d) The 103rd, 107th, and 138th district courts have concurrent jurisdiction in Cameron County. The 103rd and 138th district courts have concurrent jurisdiction in Willacy County [Section 24.205, relating to the 103rd District Court, contains provisions applicable to both that court and the 138th District Court].

(e) Section 24.503, Government Code, is amended to read as follows:

Sec. 24.503. 357TH JUDICIAL DISTRICT (CAMERON COUNTY [~~AND WILLACY COUNTIES~~]). The 357th Judicial District is composed of Cameron County [and Willacy counties].

(f) Section 24.549, Government Code, is amended to read as follows:

Sec. 24.549. 404TH JUDICIAL DISTRICT (CAMERON COUNTY [~~AND WILLACY COUNTIES~~]). The 404th Judicial District is composed of Cameron County [and Willacy counties].

(g) The local administrative district judge shall transfer all cases from Willacy County that are pending in the 107th, 357th, and 404th district courts on September 1, 2005, to the 103rd, 138th, and 197th district courts.

(h) When a case is transferred as provided by Subsection (g) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the 107th, 357th, and 404th district courts are returnable to the 103rd, 138th, or 197th

district court as if originally issued by that court. The obligees on all bonds and recognizances taken in and for the 107th, 357th, and 404th district courts and all witnesses summoned to appear in those courts are required to appear before the 103rd, 138th, or 197th district court as if originally required to appear before that court.

Amendment No. 1 was adopted.

Amendment No. 2

On behalf of Representative Chavez, Representative Hartnett offered the following amendment to **CSSB 1189**:

Amend **CSSB 1189** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 75.014, Government Code, is amended by adding Subsection (h) to read as follows:

(h) A district judge in El Paso County or a judge of a statutory county court in El Paso County may serve as the local administrative judge for the council of judges. The council of judges shall elect a judge as local administrative judge for a term of not more than two years. The local administrative judge may not be elected on the basis of rotation or seniority.

Amendment No. 2 was adopted.

Amendment No. 3

Representatives Alonzo and Veasey offered the following amendment to **CSSB 1189**:

Amend **CSSB 1189** (House Committee Printing) by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter D, Chapter 152, Human Resources Code, is amended by adding Section 152.2264 to read as follows:

Sec. 152.2264. TARRANT COUNTY CRIMINAL COURT ADMINISTRATOR AND COURT SERVICES DEPARTMENT. (a) The judges of the district and county courts in Tarrant County that give preference to criminal matters shall, on a majority vote, appoint the criminal courts administrator. The administrator serves at the will of those judges.

(b) The commissioners court shall pay the salary and expenses of the criminal court administrator and of the court services department employees as determined by the department budget:

(1) submitted by the judges of the district and county courts that give preference to criminal cases; and

(2) approved by the commissioners court.

(c) A judge may not be subjected to a suit for, and is immune from liability for damages arising from, an act or omission committed while performing a duty under this section unless the act or omission is:

(1) committed intentionally, wilfully, or wantonly; or

(2) committed with:

(A) gross negligence; or

(B) conscious indifference or reckless disregard for the safety of

others.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Raymond offered the following amendment to **CSSB 1189**:

Amend **CSSB 1189** (House Committee Printing) by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 24.151(d), Government Code, is amended to read as follows:

(d) A criminal complaint may be presented to the grand jury of any district court [Indictments returned to the 49th District Court] in Webb County, and a resulting indictment may [also] be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

SECTION __. Section 24.487, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The judge of the 341st District Court may select jury commissioners and impanel grand juries in Webb County. The judge of the 341st District Court may alternate the drawing of grand juries with the judge of any other district court in the county. By order entered on the minutes, for any term that the judge considers it necessary, the judge may order grand and petit juries to be drawn. [Indictments returned in Webb County may also be returned to the 49th District Court or the 111th District Court.] The 341st District Court has concurrent jurisdiction with the 49th District Court in all tax suits and cases.

(d) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

SECTION __. Section 24.551, Government Code, is amended by adding Subsections (c), (d), (e), and (f) to read as follows:

(c) The 406th District Court has concurrent jurisdiction with the other district courts in Webb County.

(d) In addition to other jurisdiction provided by law, the 406th District Court has the:

(1) criminal jurisdiction of a county court; and

(2) civil jurisdiction of a county court in all cases under the Family Code or the Health and Safety Code.

(e) The terms of the 406th District Court begin on the first Mondays in January, April, July, and October. Each term continues until the court disposes of its business.

(f) A criminal complaint may be presented to the grand jury of any district court in Webb County, and a resulting indictment may be returned to any other district court in Webb County with the appropriate criminal jurisdiction.

SECTION __. Section 53.001, Government Code, is amended by adding Subsection (i) to read as follows:

(i) The judge of the 406th District Court shall appoint a bailiff.

SECTION __. Section 53.004, Government Code, is amended by adding Subsection (f) to read as follows:

(f) To be eligible to be appointed bailiff in the 406th District Court, a person must be:

- (1) at least 21 years of age; and
- (2) a citizen of the United States.

Amendment No. 4 was adopted.

CCSB 1189, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero recorded voting no.)

SB 40 ON SECOND READING (Dukes and Naishtat - House Sponsors)

SB 40, A bill to be entitled An Act relating to permanency planning procedures for children residing in state institutions.

SB 40 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HUPP: Representative Dukes, I think you have an excellent bill, and one that appears to have support from the providers and the advocates. Providers support moving permanency planning to avoid even the appearance of a conflict of interest. However, they are concerned that their rates may be reduced, and when the providers were first given the responsibility of permanency planning, there was no corresponding increase in their rate to cover the cost of that service. I just want to establish for the purposes of legislative intent that it is not your intention that provider rates be reduced to cover the cost of the agency performing the duties of permanency planning, and further, that it has been indicated to you that the agency plans to use promoting independent funds of the source of funding.

REPRESENTATIVE DUKES: That is absolutely true. It is neither the intent of the house author nor the senate author to reduce those rates.

REMARKS ORDERED PRINTED

Representative Hupp moved to print remarks between Representative Dukes and Representative Hupp.

The motion prevailed.

Amendment No. 1

Representative Dukes offered the following amendment to **SB 40**:

Amend **SB 40** (House committee printing) in SECTION 2 of the bill, in added Section 531.1532, Government Code (page 3, line 9), by striking "An institution in which a child resides" and substituting "An entity that provides information to a child's parent or guardian relating to permanency planning".

Amendment No. 1 was adopted.

SB 40, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering their votes are as follows: Harper-Brown and Laubenberg recorded voting no.)

SB 52 ON SECOND READING
(Hupp - House Sponsor)

SB 52, A bill to be entitled An Act relating to a competitive grant program for aging and disability services.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

SB 52 - (consideration continued)

Amendment No. 1

Representative Naishtat offered the following amendment to **SB 52**:

Amend **SB 52** by inserting the following appropriately numbered sections to the bill and renumbering the subsequent sections of the bill accordingly:

SECTION __. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.085 to read as follows:

Sec. 531.085. PILOT PROGRAM FOR FUNDING COMMUNITY-BASED SERVICES. (a) In this section, "ICF-MR" has the meaning assigned by Section 531.002, Health and Safety Code.

(b) The commission shall direct the Department of Aging and Disability Services to develop and implement a pilot program to:

(1) quantify the amount of money appropriated by the legislature that would have been spent during the remainder of a state fiscal biennium to care for a person who lives in an ICF-MR facility administered by an ICF-MR provider selected to participate in the pilot program under this section, but who is leaving that facility before the end of the biennium to live in the community with the assistance of community-based services provided through a medical assistance waiver program; and

(2) notwithstanding any other state law and to the maximum extent allowed by federal law, transfer within the department's budget or among the commission and the health and human services agencies at the time the person leaves the facility the amount necessary to pay the cost of the community-based services provided to the person as necessary to comply with this section.

(c) The amount transferred under this section must be redirected by the commission or a health and human services agency to one or more community-based programs to provide community-based services to the person through a medical assistance waiver program after the person leaves the ICF-MR facility.

(d) The commission and the Department of Aging and Disability Services shall jointly determine criteria for selecting providers of ICF-MR services to participate in the pilot program under this section and shall jointly select at least one provider, but not more than five providers, for participation. The criteria for selecting a provider may relate to any factor the commission and department consider relevant, including:

- (1) the size and number of ICF-MR facilities the provider administers;
- (2) the history of the provider's quality of care;
- (3) the specific geographic area in which the provider provides services;

or

(4) whether the provider is willing to convert the services provided from institutional services to community-based medical assistance waiver program services.

(e) The executive commissioner may adopt rules under which the commission may decertify an appropriate Medicaid bed for each person who leaves an ICF-MR facility and for whom money is transferred under Subsection (b) (2).

(f) Not later than December 1, 2006, the commission and the Department of Aging and Disability Services shall submit a joint report concerning the effectiveness of the pilot program to the governor and the committees of each house of the legislature that have primary oversight jurisdiction over health and human services agencies. The report must include a recommendation regarding the feasibility of expanding the pilot program statewide, and analysis of provider and consumer experiences under the program, provider information related to the feasibility of expanding the program, and stakeholder recommendations relating to the program. In preparing the report and recommendations, the commission and department must:

(1) consider consumer satisfaction with the services provided under the program;

(2) compare like provider elements, including the following elements with respect to each provider:

- (A) size;
- (B) the number of persons served;
- (C) financial viability, including rates;
- (D) service transition costs;
- (E) geographic location; and
- (F) type and physical condition of facilities; and

(3) consider other aspects necessary to provide a comprehensive analysis of the program.

SECTION __. Not later than December 1, 2005, the Department of Aging and Disability Services shall implement the pilot program under Section 531.085, Government Code, as added by this Act.

Amendment No. 1 was adopted.

SB 52, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero, Laubenberg, and Leibowitz recorded voting no.)

SB 1668 ON SECOND READING
(Baxter - House Sponsor)

SB 1668, A bill to be entitled An Act relating to the consideration of payments to an affiliate in computing rates for electric utilities.

SB 1668 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Burnam and Gonzales recorded voting no.)

SB 244 ON SECOND READING
(Orr - House Sponsor)

SB 244, A bill to be entitled An Act relating to priority of payment relating to property owners' association assessments.

(Rose now present)

SB 244 - POINT OF ORDER

Representative Harper-Brown raised a point of order against further consideration of **SB 244** under Rule 4, Section 33(b) of the House Rules on the grounds that the committee report for the bill does not contain a fiscal note.

The point of order was withdrawn.

Representative Orr moved to postpone consideration of **SB 244** until 3:30 p.m. today.

The motion prevailed.

CSSB 327 ON SECOND READING
(McCall - House Sponsor)

CSSB 327, A bill to be entitled An Act relating to the installation, copying, or use of computer software for unauthorized purposes; providing a penalty.

Amendment No. 1

Representative McCall offered the following amendment to **CSSB 327**:

Amend **CSSB 327** (House Committee Printing) as follows:

(1) In SECTION 1 of the bill, in added Section 48.002, Business & Commerce Code (page 1, between lines 15 and 16), add a new Subdivision (2) to read as follows and renumber subsequent subdivisions accordingly:

(2) "Cause computer software to be copied" means to distribute or transfer computer software or a component of computer software. The term does not include:

(A) the transmission or routing of computer software or a component of the software;

(B) the provision of intermediate temporary storage or caching of software;

(C) the provision of a storage medium such as a compact disk;

(D) a website;

(E) the distribution of computer software by a third party through a computer server; or

(F) the provision of an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the user of a computer is able to locate computer software.

(2) In SECTION 1 of the bill, strike added Section 48.003(a), Business & Commerce Code (page 3, lines 10-23).

(3) In SECTION 1 of the bill, in added Section 48.003, Business & Commerce Code (page 3, line 24), strike "(b)".

(4) In SECTION 1 of the bill, in the heading to added Section 48.051, Business & Commerce Code (page 4, line 16), strike "TRANSMISSION" and substitute "CULLING".

(5) In SECTION 1 of the bill, in added Section 48.051, Business & Commerce Code (page 4, lines 18 and 19), strike "transmit computer software" and substitute "cause computer software to be copied".

(6) In SECTION 1 of the bill, in the heading to added Section 48.052, Business & Commerce Code (page 5, line 14), strike "TRANSMISSIONS" and substitute "ACCESS TO".

(7) In SECTION 1 of the bill, in added Section 48.052, Business & Commerce Code (page 5, lines 16 and 17), strike "transmit computer software" and substitute "cause computer software to be copied".

(8) In SECTION 1 of the bill, in added Section 48.053, Business & Commerce Code (page 6, lines 26 and 27), strike "transmit computer software" and substitute "cause computer software to be copied".

(9) In SECTION 1 of the bill, in Subdivision (3) of added Section 48.053, Business & Commerce Code (page 7, line 13), strike "or" and substitute ";".

(10) In SECTION 1 of the bill, in Subdivision (4)(B) of added Section 48.053, Business & Commerce Code (page 7, line 22), strike ";" and substitute ";".

(11) In SECTION 1 of the bill, immediately following Subdivision (4) of added Section 48.053, Business & Commerce Code (page 7, between lines 22 and 23), insert the following:

(5) change the name, location, or other designation of computer software to prevent the owner from locating and removing the software; or

(6) create randomized or intentionally deceptive file names or random or intentionally deceptive directory folders, formats, or registry entries to avoid detection and prevent the owner from removing computer software.

(12) In SECTION 1 of the bill, in added Section 48.055(2), Business & Commerce Code (page 8, line 9), strike "provide for" and substitute "cause".

(13) In SECTION 1 of the bill, strike added Section 48.057, Business & Commerce Code (page 8, line 25, through page 9, line 7).

Amendment No. 1 was adopted.

Amendment No. 2

Representative McCall offered the following amendment to **CSSB 327**:

Amend **CSSB 327** (House Committee Printing) as follows:

(1) In SECTION 1 of the bill, at the end of added Section 48.003, Business & Commerce Code (page 4, between lines 13 and 14), insert the following:

(c) This chapter does not apply to:

(1) the use of a navigation device, any interaction with a navigation device, or the installation or use of computer software on a navigation device by a multichannel video programming distributor or video programmer in connection with the provision of multichannel video programming or other services offered over a multichannel video programming system if the provision of the programming or other service is subject to 47 U.S.C. Section 338(i) or 551; or

(2) the collection or disclosure of subscriber information by a multichannel video programming distributor or video programmer in connection with the provision of multichannel video programming or other services offered over a multichannel video programming system if the collection or disclosure of the information is subject to 47 U.S.C. Section 338(i) or 551.

(d) In this section, "multichannel video programming distributor" has the meaning assigned by 47 U.S.C. Section 522(13).

(2) In SECTION 1 of the bill, strike added Section 48.101(a), Business & Commerce Code (page 9, lines 10-17), and substitute the following:

(a) The following persons, if adversely affected by the violation, may bring a civil action against a person who violates this chapter:

(1) a provider of computer software;

(2) an owner of a web page or trademark;

(3) a telecommunications carrier;

(4) a cable operator; or

(5) an Internet service provider.

(3) In SECTION 1 of the bill, strike added Section 48.101(g), Business & Commerce Code (page 10, line 17, through page 11, line 8), and substitute the following:

(g) In the case of a violation of Section 48.052 that causes a telecommunications carrier or cable operator to incur costs for the origination, transport, or termination of a call triggered using the modem of a customer of the telecommunications carrier or cable operator as a result of the violation and in addition to any other remedy provided by law, a telecommunications carrier or cable operator bringing an action under this section may:

(1) apply to a court for an order to enjoin the violation;

(2) recover the charges the telecommunications carrier or cable operator is obligated to pay to a telecommunications carrier, cable operator, other provider of transmission capability, or an information service provider as a result of the violation, including charges for the origination, transport, or termination of the call;

(3) recover the costs of handling customer inquiries or complaints with respect to amounts billed for calls as a result of the violation;

(4) recover other costs, including court costs, and reasonable attorney's fees; or

(5) both apply for injunctive relief and recover charges and other costs as provided by this subsection.

Amendment No. 2 was adopted.

CSSB 327, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 882 ON SECOND READING

(A. Allen and Naishtat - House Sponsors)

SB 882, A bill to be entitled An Act relating to the Texas Council on Autism and Pervasive Developmental Disorders.

SB 882 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown and Laubenberg recorded voting no.)

(Keel in the chair)

SB 450 ON SECOND READING

(Baxter - House Sponsor)

SB 450, A bill to be entitled An Act relating to the confidentiality of certain personal information regarding the employees of a prosecutor's office or of an office with jurisdiction over child protective services.

SB 450 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 23 ON SECOND READING

(Kolkhorst and Naishtat - House Sponsors)

SB 23, A bill to be entitled An Act relating to subsidized child-care services and early childhood care and education program coordination.

Amendment No. 1

Representative Kolkhorst offered the following amendment to **SB 23**:

Amend **SB 23** in SECTION 1 of the bill, in added Section 29.1561(c), Education Code (engrossed version, page 1, line 8), by striking "award grants" and substituting "provide incentives".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Isett offered the following amendment to **SB 23**:

Amend **SB 23**, as reported by the House Committee, by adding a new subsection (c)(4) to the proposed Section 29.161, Education Code:

(c) The system must:

(4) include a management scorecard system made up performance indicators, the perspectives of parents, interested stakeholders, and provider employees, and critical success factors related to implementing and sustaining effective early childhood care and education programs.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Paxton offered the following amendment to **SB 23**:

Amend House Committee Report for **SB 23** by inserting a new section and renumbering subsequent sections as follows:

SECTION _____. Sections 2308.315 and 2308.316, Government Code, are amended to read as follows:

Sec. 2308.315. REIMBURSEMENT RATES FOR CHILD CARE. Each board may [~~shall~~] establish graduated reimbursement rates for child care based on the Texas Workforce Commission's designated vendor program. If a board establishes graduated reimbursement rates for child care, the [~~The~~] minimum reimbursement rate for designated vendors must be at least five percent greater than the maximum rate established for nondesignated vendors for the same category of care. A [~~The~~] designated vendor rate differential established in this section shall be funded with federal child care development funds dedicated to quality improvement activities.

Sec. 2308.316. FUNDING OF COMPETITIVE PROCUREMENT PROCESS FOR INFANT AND EARLY CHILDHOOD CHILD CARE. Each board may [~~shall~~] allocate a portion of the board's federal child care development funds dedicated to quality improvement activities to a competitive procurement process for a system for quality child care for children under four years of age that encourages child care providers to voluntarily meet the criteria of the Texas Workforce Commission's designated vendor program or national accreditation. If a board allocates [~~In allocating~~] funds under this section, special consideration shall be given to funding child care for children under four years of age in low-income communities. This section may not be interpreted to limit parental choice.

Amendment No. 3 was withdrawn.

SB 23, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

SB 34 ON SECOND READING
(Morrison - House Sponsor)

SB 34, A bill to be entitled An Act relating to the tuition rebate program for certain undergraduates at certain public institutions of higher education.

Amendment No. 1

Representative Rose offered the following amendment to **SB 34**:

Amend **SB 34** by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 51.351(1), Education Code, is amended to read as follows:

(1) "General academic teaching institution," "governing board," "institution of higher education," "medical and dental unit," "public junior college," and "university system" have the meanings assigned by Section 61.003 ~~[of this code]~~.

SECTION _____. Subchapter G, Chapter 51, Education Code, is amended by adding Sections 51.355 and 51.356 to read as follows:

Sec. 51.355. NONVOTING STUDENT REGENT; UNIVERSITY SYSTEM BOARD OF REGENTS. (a) In this section, "student government" means the representative student organization directly elected by the student body of a general academic teaching institution or medical and dental unit.

(b) The chancellor of each university system shall develop a uniform application form to be used by each general academic teaching institution and medical and dental unit in the university system to solicit applicants for the position of student regent.

(c) Except as provided by Subsection (f), not later than September 1 of each year, the student government of each general academic teaching institution and medical and dental unit in a university system shall solicit applicants for the position of student regent. Not later than November 1, from among the applications received by the student government, the student government shall select five applicants as the student government's recommendations for the position of student regent and send the applications of those applicants, with the name of each applicant and the name of the institution or unit in which the applicant is enrolled removed, to the chancellor of the university system. From among those applicants, the chancellor shall select two or more applicants as the university system's recommendations for the position of student regent and shall send the applications of those applicants to the governor not later than December 1. The governor may request to review all applications for the position of student regent received by the student governments and may request to review information required to be removed from an application by a student government under this subsection. On February 1, or as soon thereafter as practicable, the

governor shall appoint one of the applicants to serve as the student regent for the system for a one-year term expiring on the next February 1. The governor is not required to appoint an applicant recommended by the chancellor.

(d) A student regent must be enrolled as an undergraduate or graduate student in a general academic teaching institution or medical and dental unit in the university system at the time of appointment and throughout the student regent's term. For purposes of this subsection, a person is considered to be enrolled in an institution or unit for a summer term if the person was enrolled in the institution or unit for the preceding semester and:

(1) is registered or preregistered at the institution or unit for the following fall semester;

(2) if the person has not completed the person's degree program, is eligible to continue the degree program at the institution or unit in the following fall semester; or

(3) if the person completed a degree program in the preceding semester, is admitted to another degree program at the institution or unit for the following fall semester.

(e) A student regent is not a member of the board of regents of the system for which the student regent is appointed. A student regent has the same powers and duties as the members of the board of regents of the system, including the right to attend and participate in meetings of the board of regents, except that the student regent:

(1) may not vote on any matter before the board or make or second any motion before the board; and

(2) is not counted in determining whether a quorum exists for a meeting of the board or in determining the outcome of any vote of the board.

(f) The student government of the general academic teaching institution or medical and dental unit at which a current student regent was enrolled at the time of the student regent's appointment may not solicit applicants for the position of student regent for the next regular term of the position.

(g) A vacancy in the position of student regent for a university system shall be filled for the unexpired term by appointment by the governor in consultation with the chancellor of the system.

Sec. 51.356. NONVOTING STUDENT REGENT; INSTITUTION BOARD OF REGENTS. (a) This section applies only to a general academic teaching institution that is not a part of a university system.

(b) In this section, "student government" means the representative student organization directly elected by the student body of a general academic teaching institution.

(c) The president of a general academic teaching institution shall develop a uniform application form to be used to solicit applicants for the position of student regent.

(d) Not later than September 1 of each year, the student government of the general academic teaching institution shall solicit applicants for the position of student regent. Not later than November 1, from among the applications received by the student government, the student government shall select five applicants as

the student government's recommendations for the position of student regent and send the applications of those applicants, with the name of each applicant removed, to the president of the institution. From among those applicants, the president shall select two or more applicants as the institution's recommendations for the position of student regent and shall send the applications of those applicants to the governor not later than December 1. The governor may request to review all applications for the position of student regent received by the student government and may request to review information required to be removed from an application by the student government under this subsection. On February 1, or as soon thereafter as practicable, the governor shall appoint one of the applicants to serve as the student regent for the institution for a one-year term expiring on the next February 1. The governor is not required to appoint an applicant recommended by the president.

(e) A student regent must be enrolled as an undergraduate or graduate student in the general academic teaching institution at the time of appointment and throughout the student regent's term. For purposes of this subsection, a person is considered to be enrolled in an institution for a summer term if the person was enrolled in the institution for the preceding semester and:

(1) is registered or preregistered at the institution for the following fall semester;

(2) if the person has not completed the person's degree program, is eligible to continue the degree program at the institution in the following fall semester; or

(3) if the person completed a degree program in the preceding semester, is admitted to another degree program at the institution for the following fall semester.

(f) A student regent is not a member of the board of regents of the institution for which the student regent is appointed. A student regent has the same powers and duties as the members of the board of regents of the institution, including the right to attend and participate in meetings of the board of regents, except that the student regent:

(1) may not vote on any matter before the board or make or second any motion before the board; and

(2) is not counted in determining whether a quorum exists for a meeting of the board or in determining the outcome of any vote of the board.

(g) A vacancy in the position of student regent for an institution shall be filled for the unexpired term by appointment by the governor in consultation with the president of the institution.

SECTION _____. The initial term of a student regent appointed for a state university system under Section 51.355, Education Code, as added by this Act, or for a state university under Section 51.356, Education Code, as added by this Act, expires February 1, 2007. The appropriate student governments, the chancellor of each state university system, the president of each state university that is not a part of a university system, and the governor shall take the actions required by

Sections 51.355 and 51.356, Education Code, as added by this Act, as soon as practicable after this Act takes effect to select a student regent for each state university or state university system for that initial term.

Amendment No. 1 was adopted. (Talton recorded voting no.)

Amendment No. 2

Representative Campbell offered the following amendment to **SB 34**:

Amend **SB 34** by adding the following new SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3012 to read as follows:

Sec. 56.3012. PILOT PROJECT TO PROVIDE INCENTIVES FOR ATTENDANCE AT UNDERUTILIZED PUBLIC INSTITUTIONS. (a) In addition to incentives described by Section 54.0065, the coordinating board shall establish a tuition grant incentive pilot project as provided by this section to encourage students to attend eligible public institutions of higher education that offer extensive baccalaureate degree program options and that have sufficient facilities, administrative infrastructure, and faculty to serve additional students in order to reduce the need for this state to construct additional facilities or hire additional faculty at other institutions of higher education.

(b) From money available under Section 56.310 for purposes of this subchapter and money available under Section 54.464 for purposes of Subchapter Q, the coordinating board shall set aside sufficient money to provide tuition grant incentives, including TEXAS grants for the 2005-2006 and 2006-2007 academic years to students who are initially eligible for a grant under Section 56.304 or 56.3041 in either of those years as follows:

(1) for not more than 400 additional students in excess of the total of fall 2004 awards at Angelo State University; and

(2) for not more than 200 additional students in excess of the total of fall 2004 awards at Sul Ross State University

(c) To the extent money set aside under Subsection (b) is available for the purpose, a person awarded a grant as provided by Subsection (b) who continues to be eligible for a grant under Section 56.305 may receive a grant from the money set aside. If money set aside under Subsection (b) is not available to pay for a grant for a person awarded a grant as provided by Subsection (b) who continues to be eligible for a grant under Section 56.305, the person may receive a grant from the money available under Section 56.310 on the same basis as other Texas grant applicants.

(d) The coordinating board shall reallocate for grants under this subchapter or for loans under Subchapter Q, as applicable, any money set aside for purposes of the TEXAS grant pilot project that is not used in the academic year for which the money is set aside. Money reallocated under this subsection may be used at any eligible institution under this subchapter or Subchapter Q.

(e) Except as otherwise specifically provided by this section, this subchapter applies to a TEXAS grant awarded under this section.

(f) The coordinating board shall develop criteria for evaluating the pilot project and, based on that evaluation, not later than January 1, 2007, shall report to the 80th Legislature the coordinating board's recommendations concerning whether to continue, expand to other underutilized eligible public institutions of higher education, or discontinue the pilot project.

SECTION __. The Texas Higher Education Coordinating Board shall adopt rules to administer Section 56.3012, Education Code, as added by this Act, as soon as practicable after the date this Act takes effect. For that purpose, the board may adopt the initial rules in the manner provided by law for adoption of emergency rules.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Dutton offered the following amendment to **SB 34**:

Amend **SB 34** (house committee printing) by adding the following appropriately numbered section to the bill and renumbering the remaining sections appropriately:

SECTION __. (a) Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.220 to read as follows:

Sec. 54.220. EXEMPTION FOR RESIDENT LOWER-DIVISION STUDENTS AT GENERAL ACADEMIC TEACHING INSTITUTIONS FOR MAINTAINING HIGH ACADEMIC PERFORMANCE. (a) In this section, "general academic teaching institution" has the meaning assigned by Section 61.003.

(b) An entering freshman student enrolled in a general academic teaching institution is entitled to a refund of tuition and required fees paid by the student under this chapter for the first semester or term for which the student enrolls at that institution if the student:

(1) graduated from a private high school, including a home school, or a public high school in this state;

(2) is classified as a Texas resident under Subchapter B; and

(3) for all courses attempted that initial semester or term earns a grade point average of at least 3.0 on a four-point scale or the equivalent.

(c) To receive a refund under Subsection (b), the student must apply to the institution in the manner required by the institution not later than the first anniversary of the last class day of the semester or term.

(d) A student enrolled in a general academic teaching institution is exempt from the payment of tuition and required fees authorized by this chapter for a semester or term of the student's first two academic years, other than a semester or term covered by Subsection (b), at that institution if the student:

(1) graduated from a private high school, including a home school, or a public high school in this state;

(2) is classified as a Texas resident under Subchapter B; and

(3) maintains an overall grade-point average of at least 3.0 on a four-point scale or the equivalent for all prior coursework attempted at the institution.

(e) A student receiving an exemption under this section for one or more semesters or terms may not enroll for the student's third academic year at the institution until the student passes an examination to be selected and administered by the institution.

(f) An institution to which this section applies may fund tuition and fee refunds and exemptions under this section from local funds or from funds appropriated to the institution. The institution may provide tuition and fee refunds or exemptions beyond those funded through state appropriations specifically designated for this purpose.

(g) A person may not receive a refund or exemption under this section for a semester or term that begins after the 2024-2025 academic year. This section expires September 1, 2026.

(b) This section applies beginning with tuition and fees charged for the 2005 fall semester.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Naishtat offered the following amendment to **SB 34**:

Amend **SB 34** (House committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. (a) Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.2115 to read as follows:

Sec. 54.2115. TUITION EXEMPTION FOR CERTAIN PERSONS IN TRANSITIONAL LIVING PROGRAM. (a) In this section, "transitional living program" means a program that meets the grant eligibility standards for transitional living youth projects for homeless youth under Sections 321 and 322, Runaway and Homeless Youth Act (42 U.S.C. Sections 5714-1 and 5714-2), as amended.

(b) A person is exempt from the payment of tuition and required fees other than property deposit fees if the person:

(1) was a resident in a transitional living program for a continuous period of at least six months occurring after the person's 16th birthday but before the person's 22nd birthday;

(2) maintains a current residence that is separate from that of a parent, conservator, or other guardian of the person;

(3) is classified as a Texas resident under Subchapter B;

(4) initially enrolls at an institution of higher education as a full-time or part-time undergraduate student not later than the person's 22nd birthday; and

(5) demonstrates financial need as determined according to standards adopted by any institution of higher education in which the person enrolls.

(c) Each transitional living program in this state shall provide current program information to the Department of Family and Protective Services and shall update the information as necessary. The department shall maintain a record

of each transitional living program in this state and shall provide a list of the programs to the Texas Higher Education Coordinating Board not later than June 1 of each year.

(b) Section 54.2115, Education Code, as added by this section, applies beginning with tuition and fees for the 2006 spring semester.

(c) A public institution of higher education shall adopt the standards for financial need as described by Section 54.2115, Education Code, as added by this section, not later than the 30th day after the effective date of this section. For that purpose, the institution may adopt the initial standards in the manner provided by law for adoption of emergency rules. This subsection expires January 1, 2006.

Representative Morrison moved to table Amendment No. 4.

The motion to table prevailed.

(Solomons and Zedler now present)

SB 34, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Howard, Jackson, and Laubenberg recorded voting no.)

SB 96 ON SECOND READING
(Solomons - House Sponsor)

SB 96, A bill to be entitled An Act relating to the provision on the Internet of forms and permit or license information by state agencies.

SB 96 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 111 ON SECOND READING
(T. Smith - House Sponsor)

SB 111, A bill to be entitled An Act relating to undergraduate course credit granted by public institutions of higher education for the completion of certain postsecondary-level programs by high school students.

Amendment No. 1

Representative T. Smith offered the following amendment to **SB 111**:

Amend **SB 111** (House committee printing) as follows:

(1) In SECTION 1 of the bill, strike added Subdivision (1), Subsection (a), Section 51.968, Education Code (page 1, lines 11-12), and substitute the following:

(1) "Advanced Placement examination" means an examination administered through the Advanced Placement Program.

(2) In SECTION 1 of the bill, in added Subdivision (2), Subsection (a), Section 51.968, Education Code (page 1, line 14), strike "college-level examination program" and substitute "College-Level Examination Program".

(3) In SECTION 1 of the bill, in added Subdivision (5), Subsection (a), Section 51.968, Education Code (page 1, lines 20-22), strike "(5) "International baccalaureate diploma program" means the curriculum and examinations leading to an international baccalaureate diploma"" and substitute "(5) "International Baccalaureate Diploma Program" means the curriculum and examinations leading to an International Baccalaureate diploma"".

(4) In SECTION 1 of the bill, in added Subsection (b), Section 51.968, Education Code (page 2, lines 3-6), strike "international baccalaureate diploma program, who have achieved required scores on one or more examinations in the advanced placement program or the college-level examination program"" and substitute "International Baccalaureate Diploma Program, who have achieved required scores on one or more examinations in the Advanced Placement Program or the College-Level Examination Program"".

(5) In SECTION 1 of the bill, in added Subdivision (1), Subsection (c), Section 51.968, Education Code (page 2, lines 12-14), strike "advanced placement examinations, and examinations for courses constituting the international baccalaureate diploma program"" and substitute "Advanced Placement examinations, and examinations for courses constituting the International Baccalaureate Diploma Program"".

(6) In SECTION 1 of the bill, in added Subdivision (2), Subsection (c), Section 51.968, Education Code (page 2, line 22), strike "advanced placement"" and substitute "Advanced Placement"".

(7) In SECTION 1 of the bill, in added Subdivision (1), Subsection (f), Section 51.968, Education Code (page 3, lines 15-17), strike "international baccalaureate diploma program, the advanced placement program, and the college-level examination program"" and substitute "International Baccalaureate Diploma Program, the Advanced Placement Program, and the College-Level Examination Program"".

(8) In SECTION 1 of the bill, in added Subsection (g), Section 51.968, Education Code (page 3, line 24), strike "international baccalaureate diploma program"" and substitute "International Baccalaureate Diploma Program"".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Dutton offered the following amendment to **SB 111**:

Amend **SB 111** (house committee printing) by adding the following appropriately numbered section to the bill and renumbering the remaining sections of the bill appropriately:

SECTION ____. (a) Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.220 to read as follows:

Sec. 54.220. EXEMPTION FOR RESIDENT LOWER-DIVISION STUDENTS AT GENERAL ACADEMIC TEACHING INSTITUTIONS FOR MAINTAINING HIGH ACADEMIC PERFORMANCE. (a) In this section, "general academic teaching institution" has the meaning assigned by Section 61.003.

(b) An entering freshman student enrolled in a general academic teaching institution is entitled to a refund of tuition and required fees paid by the student under this chapter for the first semester or term for which the student enrolls at that institution if the student:

(1) graduated from a private high school, including a home school, or a public high school in this state;

(2) is classified as a Texas resident under Subchapter B; and

(3) for all courses attempted that initial semester or term earns a grade point average of at least 3.0 on a four-point scale or the equivalent.

(c) To receive a refund under Subsection (b), the student must apply to the institution in the manner required by the institution not later than the first anniversary of the last class day of the semester or term.

(d) A student enrolled in a general academic teaching institution is exempt from the payment of tuition and required fees authorized by this chapter for a semester or term of the student's first two academic years, other than a semester or term covered by Subsection (b), at that institution if the student:

(1) graduated from a private high school, including a home school, or a public high school in this state;

(2) is classified as a Texas resident under Subchapter B; and

(3) maintains an overall grade-point average of at least 3.0 on a four-point scale or the equivalent for all prior coursework attempted at the institution.

(e) A student receiving an exemption under this section for one or more semesters or terms may not enroll for the student's third academic year at the institution until the student passes an examination to be selected and administered by the institution.

(f) An institution to which this section applies may fund tuition and fee refunds and exemptions under this section from local funds or from funds appropriated to the institution. The institution may provide tuition and fee refunds or exemptions beyond those funded through state appropriations specifically designated for this purpose.

(g) A person may not receive a refund or exemption under this section for a semester or term that begins after the 2024-2025 academic year. This section expires September 1, 2026.

(b) This section applies beginning with tuition and fees charged for the 2005 fall semester.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative B. Cook offered the following amendment to **SB 111**:

Amend **SB 111** by adding the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION __. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0252 to read as follows:

Sec. 28.0252. COMPUTATION OF HIGH SCHOOL GRADE POINT AVERAGE. (a) The commissioner may develop a standard method of computing a student's high school grade point average that provides for additional weight to be given to each honors course, advanced placement course, international baccalaureate course, or dual credit course described by Section 28.025 (e)(2)(B) completed by a student.

(b) If the commissioner develops a standard method under this section, a school district shall use the standard method to compute a student's high school grade point average, and the student's grade point average computed in that manner shall be used in determining the student's eligibility for automatic college admission under Section 51.803.

(b-1) Subsection (b) applies only to students entering grade nine during or after the 2007-2008 school year. This subsection expires September 1, 2010.

(c) The commissioner may adopt rules necessary to implement this section.

Amendment No. 3 was adopted.

A record vote was requested.

SB 111, as amended, was passed to third reading by (Record 794): 127 Yeas, 17 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Blake; Bohac; Branch; Brown, F.; Burnam; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crossover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hunter; Isett; Jackson; Jones, D.; Jones, J.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Berman; Bonnen; Brown, B.; Callegari; Crabb; Flynn; Hope; Hopson; Howard; Hughes; Hupp; Keffer, B.; Laubenberg; Miller; Paxton; Riddle; Talton.

Present, not voting — Mr. Speaker; Keel(C).

Absent, Excused — Hodge.

Absent, Excused, Committee Meeting — Giddings.

Absent — King, T.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 794. I intended to vote no.

F. Brown

I was shown voting no on Record No. 794. I intended to vote yes.

Hopson

I was shown voting no on Record No. 794. I intended to vote yes.

B. Keffer

I was shown voting yes on Record No. 794. I intended to vote no.

Phillips

SB 155 ON SECOND READING
(Eiland - House Sponsor)

SB 155, A bill to be entitled An Act relating to the quality assurance accreditation process for certain entities that offer health benefit plans.

Amendment No. 1

Representative Eiland offered the following amendment to **SB 155**:

Amend **SB 155** (house committee printing) in SECTION 1 of the bill by striking Subsection (c) of added Section 847.005, Insurance Code (page 5, lines 22-27), and substituting the following:

(c) If the department determines that a health benefit plan issuer is in compliance with a state statutory or regulatory requirement, the commission may presume that a Medicaid or state child health plan program managed care plan offered by a health benefit plan issuer under contract with the commission is in compliance with any contractual Medicaid or state child health plan program managed care plan requirement that is the same as, substantially similar to, or more stringent than the state statutory or regulatory requirement, as determined by the commission.

Amendment No. 1 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 7** and **SB 5**:

Solomons on motion of Homer.

SB 155 - (consideration continued)

Representative Eiland moved to postpone consideration of **SB 155** until 4 p.m. today.

The motion prevailed.

SB 263 ON SECOND READING
(Otto - House Sponsor)

SB 263, A bill to be entitled An Act relating to use of certain information relating to tax audits; providing penalties.

SB 263 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 265 ON SECOND READING
(B. Keffer - House Sponsor)

SB 265, A bill to be entitled An Act relating to certain continuing education requirements for insurance agents.

Amendment No. 1

Representative B. Keffer offered the following amendment to **SB 265**:

Amend **SB 265**, house committee printing, in SECTION 1 of the bill, on page 1, after line 24, by inserting a new Subsection (d) in added Section 4004.0535, Insurance Code, to read as follows:

(d) An agent who seeks continuing education credit under this section shall provide to the department in the manner prescribed by the commissioner a sworn affirmation that the agent is an active member of a state or national insurance association described by Subsection (a) and, for the number of continuing education hours claimed, has:

- (1) reviewed educational materials provided by that association; or
- (2) attended educational presentations sponsored by that association.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Taylor offered the following amendment to **SB 265**:

Amend **SB 265** (committee printing) as follows:

(1) On page 2, line 1, add the following new sections and renumber appropriately:

SECTION 2. Subchapter B, Chapter 4004, Insurance Code, as effective April 1, 2005, is amended by adding Section 4004.0536 as follows:

Sec. 4004.0536. CONTENT OF CONTINUING EDUCATION PROGRAM. A continuing education program for individuals who hold a general life accident and health license, a life and health insurance counselors license or a limited life accident and health license may include information related to the Health Insurance Portability and Accountability Act, Texas Insurance Code Chapter 1501, including provisions related to participation and contribution requirements and renewability of coverage.

SECTION 3. Section 1501.108, Insurance Code, is amended by adding Subsection (d) to read as follows:

(d) A small or large employer health benefit plan issuer may modify a particular small or large employer health benefit plan at the time of coverage renewal if the modification applies uniformly to all small or large employers whose employees are covered by that health benefit plan.

SECTION 4. Section 1501.153(a), Insurance Code, is amended to read as follows:

(a) This chapter does not require a small employer to make an employer contribution to the premium paid to a small employer health benefit plan issuer, but the issuer may require an employer contribution in accordance with the issuer's usual and customary practices applicable to each of the issuer's small employer group health benefit plans in this state. The issuer shall apply the employer contribution level uniformly to each small employer offered or issued coverage under a small employer health benefit plan by the issuer in this state.

SECTION 5. Sections 1501.155(a) and (b), Insurance Code, are amended to read as follows:

(a) A small employer health benefit plan issuer may offer a small employer health benefit plan to a small employer with a participation level of less than 75 percent of the employer's eligible employees if the issuer permits the same qualifying participation level for each of the small employer health benefit plans ~~[plan]~~ offered by the issuer in this state.

(b) A small employer health benefit plan issuer may offer a small employer health benefit plan to a small employer even if the employer's participation level is less than the issuer's qualifying participation level for a small employer health benefit plan established in accordance with Subsection (a) if:

(1) the employer obtains a written waiver from each eligible employee who declines coverage under a health benefit plan offered to the employer stating that the employee was not induced or pressured to decline coverage because of the employee's risk characteristics; and

(2) the issuer accepts or rejects the entire group of eligible employees who choose to participate and excludes only those employees who have declined coverage.

SECTION 6. Sections 1501.605(a) and (d), Insurance Code, are amended to read as follows:

(a) A large employer health benefit plan issuer may require a large employer to meet a minimum contribution or participation requirement as a condition of issuance or renewal in accordance with the issuer's usual and customary practices for each of ~~[all]~~ the issuer's large employer health benefit plans in this state.

(d) A participation requirement must be stated in the health benefit plan contract and must be applied uniformly to each large employer offered or issued coverage under a large employer health benefit plan by a large employer health benefit plan issuer in this state.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Taylor offered the following amendment to **SB 265**:

Amend **SB 265** (committee printing) as follows:

(1) On page 2, line 1, add the following new sections and renumber appropriately:

SECTION 2. Subchapter B, Chapter 4004, Insurance Code, as effective April 1, 2005, is amended by adding Section 4004.0536 as follows:

Sec. 4004.0536. CONTENT OF CONTINUING EDUCATION PROGRAM. A continuing education program for individuals who hold a general life accident and health license, a life and health insurance counselors license or a limited life accident and health license may include information related to the Texas Health Insurance Risk Pool.

SECTION 3. Subsection (b), Section 1506.002, Insurance Code, is amended to read as follows:

(b) In this chapter, "health benefit plan" does not include:

- (1) accident insurance;
- (2) a plan providing coverage only for dental or vision care;
- (3) fixed indemnity insurance, including hospital indemnity insurance;
- (4) [~~2~~] credit insurance;
- (5) [~~3~~] long-term care insurance;
- (6) [~~4~~] disability income insurance;
- (7) other limited benefit coverage, including specified disease coverage;
- (8) [~~5~~] coverage issued as a supplement to liability insurance;
- (9) [~~6~~] insurance arising out of a workers' compensation law or similar

law;

(10) [~~7~~] automobile medical payment insurance; or

(11) [~~8~~] insurance coverage under which benefits are payable with or without regard to fault and that is statutorily required to be contained in a liability insurance policy or equivalent self-insurance.

SECTION 4. Subsection (a), Section 1506.109, Insurance Code, is amended to read as follows:

(a) The pool shall [~~may~~] provide for and use cost containment measures and requirements to make the coverage offered by the pool more cost-effective. To the extent the board determines it is cost-effective, the cost containment measures must include individual case management and disease management. The cost containment measures may include [~~including~~] preadmission screening, the requirement of a second surgical opinion, and concurrent utilization review subject to Article 21.58 [~~and individual case management, to make the coverage offered by the pool more cost effective~~].

SECTION 5. Subsection (a), Section 1506.152, Insurance Code, is amended to read as follows:

(a) An individual who is a legally domiciled resident of this state is eligible for coverage from the pool if the individual:

(1) provides to the pool evidence that the individual maintained health benefit plan coverage for the preceding 18 months with no gap in coverage longer than 63 days and with the most recent coverage being provided through an employer-sponsored plan, church plan, or government plan;

(2) provides to the pool evidence that the individual maintained health benefit plan coverage under another state's qualified Health Insurance Portability and Accountability Act health program that was terminated because the individual did not reside in that state and submits an application for pool coverage not later than the 63rd day after the date the coverage described by this subdivision was terminated;

(3) has been a legally domiciled resident of this state for the preceding 30 days, is a citizen of the United States or has been a permanent resident of the United States for at least three continuous years, and provides to the pool:

(A) a notice of rejection of, or refusal to issue, substantially similar individual health benefit plan coverage from a health benefit plan issuer, other than an insurer that offers only stop-loss, excess loss, or reinsurance coverage, if the rejection or refusal was for health reasons;

(B) certification from an agent or salaried representative of a health benefit plan issuer that states that the agent or salaried representative cannot obtain substantially similar individual coverage for the individual from any health benefit plan issuer that the agent or salaried representative represents because, under the underwriting guidelines of the health benefit plan issuer, the individual will be denied coverage as a result of a medical condition of the individual;

(C) an offer to issue substantially similar individual coverage only with conditional riders; or

(D) ~~[a notice of refusal by a health benefit plan issuer to issue substantially similar individual coverage except at a rate exceeding the pool rate; or~~

~~(E)~~ a diagnosis of the individual with one of the medical or health conditions on the list adopted under Section 1506.154; or

(4) provides to the pool evidence that, on the date of application to the pool, the individual is certified as eligible for trade adjustment assistance or for pension benefit guaranty corporation assistance, as provided by the Trade Adjustment Assistance Reform Act of 2002 (Pub. L. No. 107-210).

SECTION 6. Subsection (a), Section 1506.155, Insurance Code, is amended to read as follows:

(a) Except as provided by this section and Section 1506.056, pool coverage excludes charges or expenses incurred before the first anniversary of the effective date of coverage with regard to any condition for which:

(1) the existence of symptoms would cause an ordinarily prudent person to seek diagnosis, care, or treatment within the six-month period preceding the effective date of coverage; or

(2) medical advice, care, or treatment was recommended or received during the six-month period preceding the effective date of coverage.

SECTION 7. Subchapter F, Chapter 1506, Insurance Code, is amended by adding Section 1506.2522 to read as follows:

Sec. 1506.2522. ANNUAL REPORT TO BOARD: ENROLLED INDIVIDUALS. (a) Each health benefit plan issuer shall report to the board the number of residents of this state enrolled, as of December 31 of the previous year, in the issuer's health benefit plans providing coverage for residents in this state, as:

(1) an employee or retired employee under a group health benefit plan;

or

(2) an individual policyholder or subscriber.

(b) In determining the number of individuals to report under Subsection (a)(1), the health benefit plan issuer shall include each employee or retired employee for whom a premium is paid and coverage is provided under an excess loss, stop-loss, or reinsurance policy issued by the issuer to an employer or group health benefit plan providing coverage for employees or retired employees in this state. A health benefit plan issuer providing excess loss insurance, stop-loss insurance, or reinsurance, as described by this subsection, for a primary health benefit plan issuer may not report individuals reported by the primary health benefit plan issuer.

(c) Ten employees or retired employees covered by a health plan issuer under a policy of excess loss insurance, stop-loss insurance, or reinsurance count as one employee or retired employee for purposes of determining that health plan issuer's assessment.

(d) In determining the number of individuals to report under this section, the health benefit plan issuer shall exclude:

(1) the dependents of the employee or retired employee or an individual policyholder or subscriber; and

(2) individuals who are covered by the health benefit plan issuer under a Medicare supplement benefit plan subject to Chapter 1652.

(e) This section expires September 1, 2007.

SECTION 8. Section 1506.253, Insurance Code, is amended to read as follows:

Sec. 1506.253. ASSESSMENTS TO COVER NET LOSSES. (a) The board shall recover any net loss of the pool by assessing each health benefit plan issuer an amount determined annually by the board based on information in annual statements, the health benefit plan issuer's annual report to the board under Sections ~~[Section]~~ 1506.2521 and 1506.2522, and any other reports required by and filed with the board.

(b) The amount of a health benefit plan issuer's assessment is computed by multiplying the total amount required to be assessed against all health benefit plan issuers by a number computed by dividing:

(1) the gross premiums collected by the issuer for health benefit plans in this state during the preceding calendar year; by

(2) the gross premiums collected by all issuers for health benefit plans in this state during the preceding calendar year.

(b-1) Notwithstanding Subsection (b), to compute the amount of a health benefit plan issuer's assessment, if any, the board shall:

(1) divide the total amount to be assessed by the total number of enrolled individuals reported by all health benefit plan issuers under Section 1506.2522 as of the preceding December 31 to determine the per capita amount; and

(2) multiply the number of enrolled individuals reported by the health benefit plan issuer under Section 1506.2522 as of the preceding December 31 by the per capita amount to determine the amount assessed to that health benefit plan issuer.

(b-2) Subsection (b-1) and this subsection expire September 1, 2007.

(c) A [For purposes of the assessment under this subchapter, gross health benefit plan premiums do not include premiums collected for:

[1) coverage under a Medicare supplement benefit plan subject to Chapter 1652;

[2) coverage under a] small employer health benefit plan subject to Subchapters A-H, Chapter 1501, is not subject to an assessment under this subchapter[; or

[3) coverage or insurance listed in Section 1506.002(b)].

SECTION 9. Chapter 1506, Insurance Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. SUBROGATION RIGHTS OF POOL

Sec. 1506.301. SUBROGATION TO RIGHTS AGAINST THIRD PARTY.

The pool:

(1) is subrogated to the rights of an individual covered by the pool to recover against a third party costs for an injury or illness for which the third party is liable under contract, tort law, or other law that have been paid by the pool on behalf of the covered individual; and

(2) may enforce that liability on behalf of the individual.

Sec. 1506.302. BENEFITS NOT PAYABLE; ADVANCE OF BENEFITS AUTHORIZED. (a) Under coverage provided by the pool, benefits are not payable for an injury or illness for which a third party may be liable under contract, tort law, or other law.

(b) Notwithstanding Subsection (a), the pool may advance to a covered individual the benefits provided under the pool coverage for medical expenses resulting from the injury or illness, subject to the pool's right to subrogation and reimbursement under this subchapter.

Sec. 1506.303. REIMBURSEMENT OF POOL REQUIRED. (a) Subject to Section 1506.305, the amount recovered by a covered individual in an action against a third party who is liable for the injury or illness must be used to reimburse the pool for benefits for medical expenses that have been advanced under Section 1506.302.

(b) The amount of reimbursement required by this section is not reduced by the application of the doctrine established at common law relating to adequate compensation of insureds and commonly referred to as the "made whole" doctrine.

(c) Subject to Section 1506.305, the pool shall treat any amount recovered by a covered individual in an action against a third party who is liable for the injury or illness that exceeds the amount of the reimbursement required under this section as an advance against future medical benefits for the injury or illness that the individual would otherwise be entitled to receive under pool coverage.

Sec. 1506.304. RESUMPTION OF PAYMENT OF BENEFITS. If the amount treated as an advance under Section 1506.303(c) is adequate to cover all future medical costs for the covered individual's injury or illness, the pool is not required to resume the payment of benefits. If the advance is insufficient, the pool shall resume the payment of benefits when the advance is exhausted.

Sec. 1506.305. ATTORNEY 'S FEE FOR REPRESENTATION OF POOL 'S INTEREST. (a) For purposes of this section, the pool's recovery includes:

(1) the amount recovered by the pool in the action; and

(2) the amount of the covered individual's total recovery that must be used to reimburse the pool or that is treated as an advance for future medical costs under Section 1506.303(c).

(b) If the pool's interest is not actively represented by an attorney in a third-party action under this subchapter, the pool shall pay a fee to an attorney representing the claimant in the amount agreed on between the attorney and the pool. In the absence of an agreement, the court shall award to the attorney payable out of the pool's recovery:

(1) a reasonable fee for recovery of the pool's interest that may not exceed one-third of the pool's recovery; and

(2) a proportionate share of the reasonable expenses incurred.

(c) An attorney who represents a covered individual and is also to represent the interests of the pool under this subchapter must make a full written disclosure to the covered individual before employment as an attorney by the pool. The covered individual must acknowledge the disclosure and consent to the representation. A signed copy of the disclosure shall be provided to the covered individual and the pool. A copy of the disclosure with the covered individual's consent must be filed with the pleading before a judgment is entered and approved by the court. The attorney may not receive a fee under this section to which the attorney is otherwise entitled under an agreement with the pool unless the attorney complies with the requirements of this subsection.

(d) If an attorney actively representing the pool's interest actively participates in obtaining a recovery, the court shall award and apportion between the covered individual's and the pool's attorneys a fee payable out of the pool's subrogation recovery. In apportioning the award, the court shall consider the benefit accruing to the pool as a result of each attorney's service. The total attorney's fees may not exceed one-third of the pool's recovery.

SECTION 10. (a) The legislature shall establish a joint interim committee to study the deficit resulting from the net losses of the Texas Health Insurance Risk Pool and to recommend a method or formula for recouping any deficit that apportions the cost of those losses among the largest possible number of users of the health care system.

(b) Not later than September 1, 2006, the committee shall report its findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives.

(c) The lieutenant governor and speaker shall determine the composition of the committee.

(d) This section expires September 1, 2007.

SECTION 11. (a) This Act applies only to an application for initial or renewal coverage through the Texas Health Insurance Risk Pool under Chapter 1506, Insurance Code, as amended by this Act, that is filed with that pool on or after the effective date of this Act. An application filed before the effective date of this Act is governed by the law in effect on the date on which the application was filed, and the former law is continued in effect for that purpose.

(b) Section 1506.155, Insurance Code, as amended by this Act, and Subchapter G, Chapter 1506, Insurance Code, as added by this Act, apply only to pool coverage that is delivered, issued for delivery, or renewed on or after the effective date of this Act. Pool coverage that is delivered, issued for delivery, or renewed before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

(c) The change in law made by this Act to Section 1506.002(b), Insurance Code, applies to an assessment under Subchapter F, Chapter 1506, Insurance Code, for a calendar year beginning on or after the effective date of this Act. An assessment for a net loss for a calendar year before the effective date of this Act is governed by the law in effect during the calendar year for which the assessment is made, and the former law is continued in effect for that purpose.

(d) The board of directors of the Texas Health Insurance Risk Pool shall refund an assessment amount paid for a period after September 30, 2005, that is attributable to those coverages that are exempt from the assessment because of the change in law made by this Act to Section 1506.002(b), Insurance Code, at the time the final net loss for the period for which the assessment is made is determined.

(e) Section 1506.253, Insurance Code, as amended by this Act, applies to an assessment under Subchapter F, Chapter 1506, Insurance Code, for a calendar year beginning on or after January 1, 2006. An assessment for a calendar year before January 1, 2006, is governed by the law in effect during the period for which the assessment is made, and the former law is continued in effect for that purpose.

(f) Notwithstanding Subsection (a) of this section and Section 1506.158, Insurance Code, an individual who is covered by the Texas Health Insurance Risk Pool on the effective date of this Act and who, because of the change in law made by this Act to Subsection (a), Section 1506.152, Insurance Code, would no longer be eligible for coverage, continues to be eligible for coverage from the pool until the individual's coverage is terminated for a reason other than that change in law.

SECTION 12. (a) In accordance with Subsection (c), Section 311.031, Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Subsection (b), Section 1506.002, Insurance Code, as set out in Section 1 of this Act, Subsection

(a), Section 1506.152, Insurance Code, as set out in Section 3 of this Act, and Subsections (a) and (c), Section 1506.253, Insurance Code, as set out in Section 6 of this Act, gives effect to changes made by Sections 1, 6, and 11, Chapter 840, Acts of the 78th Legislature, Regular Session, 2003.

(b) To the extent of any conflict, Subsection (b), Section 1506.002, Insurance Code; Subsection (a), Section 1506.109, Insurance Code; Subsection (a), Section 1506.152, Insurance Code; Subsection (a), Section 1506.155, Insurance Code; Section 1506.253, Insurance Code; Chapter 1506, Insurance Code prevails over another Act of the 79th Legislature, Regular Session, 2005, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 13. Subsection (b), Section 1506.002, Insurance Code; Subsection (a), Section 1506.109, Insurance Code; Subsection (a), Section 1506.152, Insurance Code; Subsection (a), Section 1506.155, Insurance Code; Section 1506.253, Insurance Code; Chapter 1506, Insurance Code takes effect January 1, 2006.

Amendment No. 3 was adopted.

SB 265, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 244 ON SECOND READING (Orr - House Sponsor)

SB 244, A bill to be entitled An Act relating to priority of payment relating to property owners' association assessments.

SB 244 was read second time earlier today and was postponed until this time.

Representative Orr moved to postpone consideration of **SB 244** until 4:15 p.m. today.

The motion prevailed.

MAJOR STATE CALENDAR (consideration continued)

SB 299 ON SECOND READING (Menendez - House Sponsor)

SB 299, A bill to be entitled An Act relating to the exception from required public disclosure of the name of an applicant for the position of city manager of certain home-rule municipalities.

SB 299 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **SB 299** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

The chair sustained the point of order.

The ruling precluded further consideration of **SB 299**.

MEMORANDUM BY REPRESENTATIVE DUNNAM

The bill analysis incorrectly states that the bill delegates rulemaking authority to board in Section 19. The bill analysis must contain "an analysis of the content of the bill or resolution." House Rule 4, Section 32(c)(2) (2005).

The analysis section states that the bill applies to a "municipality having a population of more than 500,000 and operating under a council-manager form of government[.]" This is incorrect. The bill applies only to a "municipality having a population of more than one million and operating under a council-manager form of government[.]" House Committee Report, page 1, lines 11-12.

Thus, the analysis does not state the content of the bill, but the content of an amendment to be proposed. It is not a foregone conclusion that the committee amendment will be adopted or even offered and cannot be part of the content of the bill until that time. Thus, the bill analysis is incorrect and the committee report is defective.

For the above reasons, the point of order should be sustained.

**SB 442 ON SECOND READING
(Rose - House Sponsor)**

SB 442, A bill to be entitled An Act relating to immunity from liability for certain civil actions and civil actions against sales agents.

SB 442 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**SB 451 ON SECOND READING
(Hartnett - House Sponsor)**

SB 451, A bill to be entitled An Act relating to the qualifications for service as a grand or petit juror and challenges for cause.

SB 451 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**SB 573 ON SECOND READING
(Casteel - House Sponsor)**

SB 573, A bill to be entitled An Act relating to the award of certain highway maintenance contracts by the Texas Department of Transportation.

Amendment No. 1

On behalf of Representative Chavez, Representative Casteel offered the following amendment to **SB 573**:

Amend **SB 573** (house committee printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION __. Section 222.053, Transportation Code, is amended by adding Subsections (f), (g), and (h) to read as follows:

(f) The commission shall certify a county as an economically disadvantaged county on an annual basis as soon as possible after the comptroller reports on the economic indicators listed under Subsection (a). A county certified under this section is eligible for an adjustment under Subsection (c)(2).

(g) The commission shall determine whether to make an adjustment under Subsection (c)(2) at the time a political subdivision that consists of all or a portion of an economically disadvantaged county submits a proposal to construct, maintain, or extend a highway or for another type of highway project.

(h) The commission may delegate any of its duties or powers under this section to the director or the director's designee.

Amendment No. 1 was adopted.

SB 573, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Anderson, Flynn, and Leibowitz recorded voting no.)

SB 593 ON SECOND READING
(Anchia - House Sponsor)

SB 593, A bill to be entitled An Act relating to the governor's study of emerging technology and economic development.

Amendment No. 1

Representative Hartnett offered the following amendment to **SB 593**:

Amend **SB 593** by amending current Section 2 and inserting Section 3 as follows, and renumbering the remaining sections of the bill accordingly:

SECTION 2. Section 1 of t~~This Act expires September 1, 2007.~~

SECTION 3. Section 39.107, Utilities Code, is amended by amending Subsections (a) and (b) and by adding Subsection (h) to read as follows:

(a) On introduction of customer choice in a service area, metering services for the area shall continue to be provided by the transmission and distribution utility affiliate of the electric utility that was serving the area before the introduction of customer choice. Metering services provided to commercial and industrial customers that are required by the independent system operator to have an interval data recorder meter may ~~shall~~ be provided on a competitive basis ~~[beginning on January 1, 2004].~~

(b) Metering services provided to residential customers and to nonresidential customers other than those required by the independent system operator to have an interval data recorder meter shall continue to be provided by the transmission and distribution utility affiliate of the electric utility that was serving the area before the introduction of customer choice [until the later of September 1, 2005, or the date on which at least 40 percent of those residential customers are taking service from unaffiliated retail electric providers]. Retail electric providers serving residential and nonresidential customers other than those required by the independent system operator to have an interval data recorder meter may request that the transmission and distribution utility provide specialized meters, meter features, or add-on accessories so long as they are technically feasible and generally available in the market and provided that the retail electric provider pays the differential cost of such a meter or accessory. Metering and billing services provided to residential customers shall be governed by the customers safeguards adopted by the commission under Section 39.10. All meter data, including all data generated, provided, or otherwise made available, by advanced meters and meter information networks, shall belong to a customer, including data used to calculate charges for service, historical load data, and any other proprietary customer information. A customer may authorize its data to be provided to one or more retail electric providers under rules and charges established by the commission.

(h) The commission shall establish a nonbypassable surcharge for an electric utility or transmission and distribution utility to use to recover reasonable and necessary costs incurred in deploying advanced metering and meter information networks to residential customers and nonresidential customers other than those required by the independent system operator to have an interval data recorder meter. The commission shall ensure that the nonbypassable surcharge reflects a deployment of advanced meters that is no more than one-third of the utility's total meters over each calendar year, and shall ensure that the nonbypassable surcharge does not result in the utility recovering more than its actual, fully allocated meter and meter information network costs. The expenses must be allocated to the customer classes receiving the services, based on the electric utility's most recently approved tariffs.

Amendment No. 1 was withdrawn.

SB 593 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

SB 623 ON SECOND READING
(Peña - House Sponsor)

SB 623, A bill to be entitled An Act relating to the authorized charges for providing a copy of public information requested under the public information law.

Amendment No. 1

Representative Peña offered the following amendment to **SB 623**:

Amend **SB 623** (house committee printing), in Section 1 of the bill as follows:

- (1) In Section 552.263(e) (page 1, line 8), strike "E" and insert "F".
- (2) In Section 552.263(f) (page 1, line 16), strike "c" and insert "a".

Amendment No. 1 was adopted.

SB 623, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 626 ON SECOND READING
(J. Davis - House Sponsor)

SB 626, A bill to be entitled An Act relating to medical assistance in certain alternative community-based care settings.

SB 626 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown and Laubenberg recorded voting no.)

HR 2080 - ADOPTED
(by Eiland)

Representative Eiland moved to suspend all necessary rules to take up and consider at this time **HR 2080**.

The motion prevailed.

The following resolution was laid before the house:

HR 2080, In memory of U.S. Army Private First Class Wesley Robert Riggs of Beach City.

HR 2080 was read and was unanimously adopted by a rising vote.

CSSB 712 ON SECOND READING
(R. Cook - House Sponsor)

CSSB 712, A bill to be entitled An Act relating to the legislature's goal for energy efficiency and related energy efficiency programs.

Amendment No. 1

Representatives Bonnen and Hamric offered the following amendment to **CSSB 712**:

Amend **CSSB 712** as follows:

- (1) On page 2, line 23, add new SECTION 2 and renumber accordingly:

SECTION 2. Amend section 35.004 of the Utilities Code by adding a new Subsection (f) to read as follows:

(f) In order to properly reflect the infrastructure costs and benefits of energy efficiency and other technologies and resources that do not require transmission infrastructure, the commission shall develop and implement rules to ensure that a power generation company that interconnects with the transmission facilities of an electric utility, municipally owned utility, or electric cooperative in ERCOT bears an appropriate share of the costs of transmission additions and upgrades made necessary by the power generation company's interconnection to and use of the transmission system and transmission additions and upgrades associated with a competitive renewable energy zone. The rules shall be competitively neutral and consistent with the purposes of this subtitle.

Amendment No. 1 was adopted.

CSSB 712, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: A. Allen, Herrero, and Leibowitz recorded voting no.)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 7** and **SB 5**:

Zedler on motion of Homer.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 155 ON SECOND READING **(Eiland - House Sponsor)**

SB 155, A bill to be entitled An Act relating to the quality assurance accreditation process for certain entities that offer health benefit plans.

SB 155 was read second time earlier today, amended, and was postponed until this time.

Amendment No. 2

On behalf of Representative Isett, Representative Eiland offered the following amendment to **SB 155**:

Amend **SB 155** on Page 8, line 20, by inserting the following sections renumbering accordingly:

SECTION _____. Subtitle F, Title 8, Insurance Code, is amended by adding Chapter 1457 to read as follows:

CHAPTER 1457 PROVISIONAL CREDENTIALING STATUS

Sec. 1457.001 DEFINITIONS. In this chapter:

(1) "Enrollee" means an individual who is eligible to receive health care services through a health benefit plan.

(2) "Physician" means an individual licensed to practice medicine in this state under the authority of Title 3, Subtitle B, Occupations Code.

(3) "Provider network" means a health benefit plan under which health care services are provided to enrollees through contracts with physicians and that requires those enrollees to use physicians participating in the plan and procedures covered by the plan. The term includes a network operated by:

(A) a health maintenance organization;

(B) a preferred provider organization; or

(C) another entity that issues a health benefit plan, including an insurance company.

Sec. 1457.002. APPLICABILITY OF CHAPTER. This chapter applies to any health benefit plan covered by Section 1456.002, Insurance Code.

Sec. 1457.003. PROVISIONAL CREDENTIALING STATUS.

(a) A health benefit plan shall have a process for provisional credentialing status in compliance with the requirements of the National Committee for Quality Assurance.

(b) A health benefit plan shall grant provisional credentialing status to a physician:

(1) submits a completed standard credentialing application to the health benefit plan;

(2) meets the health plan's requirements for provisional credentialing;
and

(3) joins as a partner, shareholder or employee of another physician who is contracted with a health benefit plan to provide medical or healthcare services to enrollees.

(c) A health benefit plan must complete the credentialing process within sixty (60) calendar days of the date a physician is granted provisional status. In the event the physician does not meet the health plan's credentialing standards, the physician must be provided the same appeal process as any other physician applying for participation with the health benefit plan.

Amendment No. 2 was adopted.

SB 155, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

MAJOR STATE CALENDAR
(consideration continued)

CSSB 771 ON SECOND READING
(Hartnett - House Sponsor)

CSSB 771, A bill to be entitled An Act relating to tax increment financing.

Amendment No. 1

Representative Menendez offered the following amendment to **CSSB 771**:

Amend **CSSB 771** (house committee printing) by inserting the following appropriately numbered section and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Chapter 311, Tax Code, is amended by adding Section 311.0087 to read as follows:

Sec. 311.0087. RESTRICTION ON POWERS OF CERTAIN MUNICIPALITIES. (a) this section applies only to a proposed reinvestment zone:

(1) the designation of which is requested in a petition submitted under Section 311.005(a) (5) before July 31, 2004, to the governing body of a home rule municipality that:

(A) has a population of more than 1.1 million; and

(B) is located primarily in a county with a population of 1.5 million or less; and

(C) as created at least 20 reinvestment zones under this chapter; and

(2) that is the subject of a resolution of intent that was adopted before October 31, 2004 by the governing body of the municipality.

(b) If the municipality imposes a fee of more than \$25,000 for processing the petition, the municipality may not require a property owner who submitted the petition, as a condition of designating the reinvestment zone or approving a development agreement, interlocal agreement, or project plan for the proposed reinvestment zone:

(1) to waive any rights of the owner under Chapter 245, Local Government Code, or under any agreed order or settlement agreement to which the municipality is a party;

(2) to dedicate more than 20 percent of the owner's land in the area described in the petition as open-space land; or

(3) to use a nonconventional use pattern for a development to be located within the proposed reinvestment zone.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Turner offered the following amendment to **CSSB 771**:

Amend **CSSB 771** (house committee printing) as follows:

(1) In the recital to SECTION 3 of the bill (page 2, line 26), strike "Subsection (g)" and substitute "Subsections (g), (h), and (i)".

(2) In SECTION 3 of the bill, immediately following proposed Section 311.010(g), Tax Code (page 3, between lines 3 and 4), insert the following:

(h) Subject to the approval of the governing body of the municipality that created the zone, the board of directors of a reinvestment zone, as necessary or convenient to implement the project plan and reinvestment zone financing plan and achieve their purposes, may establish and provide for the administration of one or more programs for the public purposes of developing and diversifying the economy of the zone, eliminating unemployment and underemployment in the zone, and developing or expanding transportation, business, and commercial activity in the zone, including programs to make grants and loans from the tax increment fund of the zone in an aggregate amount not to exceed the amount of the tax increment produced by the municipality and paid into the tax increment

fund for the zone for activities that benefit the zone and stimulate business and commercial activity in the zone. For purposes of this subsection, on approval of the municipality, the board of directors of the zone has all the powers of a municipality under Chapter 380, Local Government Code.

(i) The board of directors of a reinvestment zone or a local government corporation administering a reinvestment zone may contract with the municipality that created the zone to allocate from the tax increment fund for the zone an amount equal to the tax increment produced by the municipality and paid into the tax increment fund for the zone to pay the incremental costs of providing municipal services incurred as a result of the creation of the zone or the development or redevelopment of the land in the zone, regardless of whether the costs of those services are identified in the project plan or reinvestment zone financing plan for the zone.

(3) Insert the following appropriately numbered section of the bill and renumber the subsequent sections of the bill accordingly:

SECTION __. Section 311.013, Tax Code, is amended by amending Subsection (b) and adding Subsections (l) and (m) to read as follows:

(b) Each taxing unit shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the unit, less the sum of:

(1) property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the unit to another political subdivision; and

(2) for a taxing unit other than the municipality that created the zone, a portion, not to exceed 15 percent, of the tax increment produced by the unit as provided by the reinvestment zone financing plan or a larger portion as provided by Subsection (f).

(l) The governing body of a municipality that designates an area as a reinvestment zone may determine in the designating ordinance adopted under Section 311.003 or in the ordinance adopted under Section 311.011 approving the reinvestment zone financing plan for the zone the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone. If a municipality does not determine the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for a reinvestment zone, the municipality is required to pay into the fund for the zone the entire tax increment produced by the municipality, except as provided by Subsection (b)(1).

(m) The governing body of a municipality that is located in a county with a population of more than 1.4 million but less than 2.1 million or in a county with a population of 3.3 million or more by ordinance may reduce the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone. The municipality may not reduce under this subsection the portion of the tax increment produced by the municipality that the municipality is required to pay into the tax increment fund for the zone unless the municipality provides each county that has entered into an agreement with the municipality to pay all or a portion of the county's tax increment into the fund an opportunity to enter into an agreement with the municipality to reduce the portion

of the tax increment produced by the county that the county is required to pay into the tax increment fund for the zone by the same proportion that the portion of the municipality's tax increment that the municipality is required to pay into the fund is reduced. The portion of the tax increment produced by a municipality that the municipality is required to pay into the tax increment fund for a reinvestment zone, as reduced by the ordinance adopted under this subsection, together with all other revenues required to be paid into the fund, must be sufficient to complete and pay for the estimated costs of projects listed in the reinvestment zone financing plan and pay any tax increment bonds or notes issued for the zone, and any other obligations of the zone.

Amendment No. 2 was adopted.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 7** and **SB 5**:

Rose on motion of Hopson.

CSSB 771 - (consideration continued)

Amendment No. 3

Representative Puente offered the following amendment to **CSSB 771**:

CSSB 771 is amended in Section 1 of the bill, in amended Section 311.005(a), Tax Code, by striking Section 311.005(a)(2) (page 2, lines 6-9), substituting the following, and renumbering the remaining subdivisions of Subsection (a) accordingly:

~~((2) be predominantly open and,~~

Amendment No. 3 was withdrawn.

CSSB 771, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 806 ON SECOND READING (Swinford - House Sponsor)

CSSB 806, A bill to be entitled An Act relating to appointed members of the State Soil and Water Conservation Board.

CSSB 806 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 821 ON SECOND READING (Hamric - House Sponsor)

SB 821, A bill to be entitled An Act relating to an administrative cost for the enforcement of the collection of tolls in certain counties.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Callegari, Representative Hamric offered the following committee amendment to **SB 821**:

Amend **SB 821** as follows:

1. After SUBSECTION 1, page 1, line 18, insert new SECTION 2 as follows:

SECTION 2. Section 284.2031, Transportation Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) In a county with a population of 3.3 million or more, money ~~[Money]~~ collected under Subsection (a) shall be deposited in the county treasury in a special fund to be administered by the county attorney or district attorney. Expenditures from this fund shall be at the sole discretion of the attorney and may be used only to defray the salaries and expenses of the prosecutor's office, but in no event may the county attorney or district attorney supplement his or her own salary from this fund.

(d) In a county with a population of less than 3.3 million, money collected under Subsection (a) shall be deposited in the general fund of the county.

2. Renumber the subsequent Sections accordingly.

Amendment No. 1 was adopted.

A record vote was requested.

SB 821, as amended, failed to pass to third reading by (Record 795): 32 Yeas, 91 Nays, 7 Present, not voting.

Yeas — Blake; Brown, B.; Brown, F.; Callegari; Corte; Crownover; Davis, J.; Delisi; Denny; Geren; Hamilton; Hamric; Hochberg; Isett; Kolkhorst; Laney; McClendon; Menendez; Morrison; Mowery; Orr; Otto; Peña; Pitts; Reyna; Seaman; Smith, W.; Smithee; Vo; West; Wong; Woolley.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Bohac; Branch; Burnam; Campbell; Casteel; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Crabb; Davis, Y.; Dawson; Deshotel; Driver; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hardcastle; Hegar; Herrero; Homer; Hope; Hopson; Hunter; Hupp; Jones, D.; Jones, J.; Keel(C); Keffer, B.; King, T.; Kuempel; Laubenberg; Leibowitz; Luna; Martinez; Martinez Fischer; McReynolds; Merritt; Moreno, P.; Naishtat; Nixon; Noriega, M.; Paxton; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Smith, T.; Solis; Strama; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal.

Present, not voting — Mr. Speaker; Bonnen; Hilderbran; Howard; Jackson; Madden; Miller.

Absent, Excused — Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons; Zedler.

Absent — Chisum; Dukes; Flores; Harper-Brown; Hartnett; Hill; Hughes; Keffer, J.; King, P.; Krusee; McCall; Oliveira; Olivo; Straus.

STATEMENTS OF VOTE

I was shown voting no on Record No. 795. I intended to vote yes.

Edwards

When Record No. 795 was taken, I was in the house but away from my desk. I would have voted no.

Harper-Brown

When Record No. 795 was taken, I was in the house but away from my desk. I would have voted no.

Olivo

CSSB 874 ON SECOND READING (Hupp - House Sponsor)

CSSB 874, A bill to be entitled An Act relating to quality-of-care monitoring visits to long-term care facilities.

CSSB 874 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

SB 1044 ON SECOND READING (Eiland - House Sponsor)

SB 1044, A bill to be entitled An Act relating to efforts by coastal counties to mitigate coastal erosion and improve public access to public beaches; authorizing the issuance of bonds by coastal counties.

Amendment No. 1

Representative Eiland offered the following amendment to **SB 1044**:

Amend **SB 1044** (House Committee Printing) as follows:

(1) In SECTION 2 of the bill, in added Section 33.653, Natural Resources Code (page 4, lines 13-14), strike Subsection (b) and substitute the following:

(b) The fund consists of:

(1) gifts and grants; and

(2) appropriations of money to the fund by the legislature.

(2) In SECTION 2 of the bill, in added Section 33.654, Natural Resources Code (page 4, line 26, through page 5, line 4), strike Subsection (a) and substitute the following:

(a) The coastal protection and improvement fund shall be used only to make a qualified payment to a coastal county sponsoring a qualified project under this subchapter.

(3) In SECTION 2 of the bill, in added Section 33.654, Natural Resources Code (page 5, lines 13-22), strike Subsections (d) and (e).

(4) In SECTION 2 of the bill, in added Subsection (b), Section 33.655, Natural Resources Code (page 5, line 27), strike "or equalization payment under Section 33.659".

(5) In SECTION 2 of the bill, in Section 33.656, Natural Resources Code (page 6, line 4), strike "(a)".

(6) In SECTION 2 of the bill, in added Subdivision (5), Subsection (a), Section 33.656, Natural Resources Code (page 6, line 15), strike "except as provided by Subsection (b)".

(7) In SECTION 2 of the bill, in added Section 33.656, Natural Resources Code (page 6, lines 17-18), strike Subsection (b).

(8) In SECTION 2 of the bill, strike added Section 33.659, Natural Resources Code (page 8, line 12, through page 9, line 1), and renumber subsequent sections in added Subchapter I, Natural Resources Code, accordingly.

(9) Strike SECTION 3 of the bill (page 11, line 15, through page 12, line 12) and renumber subsequent SECTIONS of the bill accordingly.

(10) In SECTION 4 of the bill (page 12, line 13), strike "The Commissioner" and substitute "To the extent money is available, the Commissioner".

Amendment No. 1 was adopted.

SB 1044, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1055 ON SECOND READING (J. Davis - House Sponsor)

SB 1055, A bill to be entitled An Act relating to an alternative method of satisfying certain licensing requirements for assisted living facilities.

Amendment No. 1

Representative J. Davis offered the following amendment to **SB 1055**:

Amend **SB 1055** (House Committee Report) by inserting the following SECTION and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter D, Chapter 247, Health and Safety Code, is amended by adding Section 247.069 to read as follows:

Sec. 247.069. CONSUMER CHOICE FOR ASSISTED LIVING IN COMMUNITY CARE PROGRAMS. The community based alternatives program and the residential care programs, which provide an assisted living option to consumers, shall provide a consumer the opportunity to choose an assisted living facility that meets the department's licensing standards relating to facility construction without regard to the number of units in the facility, if:

(1) consumers are advised of all other community care options; and

(2) the facility:

(A) has never been licensed by the department as anything other than an assisted living facility;

(B) is not physically connected to a skilled nursing facility;

- (C) was constructed before September 1, 2005; and
(D) otherwise meets all other community care program standards.

Amendment No. 1 was adopted.

Amendment No. 2

Representative J. Davis offered the following amendment to **SB 1055**:

Amend **SB 1055** (House Committee printing) as follows:

(1) Insert the following appropriately numbered SECTIONS and renumber the subsequent SECTIONS accordingly:

SECTION ____. (a) The Health and Human Services Commission shall convene a workgroup composed of providers, consumer advocates, building inspectors, fire marshals, and other individuals as appropriate to study state laws relating to the delivery of personal care services to four or more persons who are unrelated to the proprietor in settings that are not licensed as assisted living facilities, but are instead settings where residents receive personal care services through one or more home and community support services agencies. The workgroup shall consider:

- (1) state licensing laws;
- (2) the nature, extent, and differences of consumer needs and preferences;
- (3) the qualifications of persons authorized to provide personal care services; and
- (4) the settings in which personal care services are provided, including the life safety codes applicable to those settings.

(b) Not later than December 1, 2006, the workgroup, with the assistance of the Health and Human Services Commission, shall prepare and deliver a report and make recommendations on the issues studied to the governor, the lieutenant governor, and the speaker of the house of representatives.

(c) Notwithstanding any other law, the Department of Aging and Disability Services and the attorney general may not initiate or continue any action or investigation that seeks to enjoin or otherwise impose any sanction against a person for operating an assisted living facility without a license if the person offers personal care services to four or more persons who are unrelated to the proprietor in a setting that is not licensed as an assisted living facility, but is instead a setting where residents receive personal care services through one or more home and community support services agencies.

(d) This section expires September 1, 2007.

SECTION ____. Not later than June 1, 2007, the Department of Aging and Disability Services shall accept an accreditation survey and implement the procedures required by Section 247.032, Health and Safety Code, as added by this Act.

(2) Strike SECTION 2 of the bill and substitute the following:

SECTION ____. This Act takes effect September 1, 2005.

Amendment No. 3

Representative J. Davis offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 to **SB 1055** by Davis of Harris by striking page 1, line 4 through page 2, line 8, and substituting the following:

SECTION _____. (a) The Health and Human Services Commission shall convene a workgroup composed of providers, consumer advocates, building inspectors, fire marshals, and other individuals as appropriate to study state laws relating to the delivery of personal care services to four or more persons who are unrelated to the proprietor in settings that are not licensed as assisted living facilities, but are instead settings where one or more residents receive personal care services through one or more home and community support services agencies. The purpose of the study is to perform a comprehensive review of the changing environment in the personal care services delivery system to determine if changes in state licensing and regulation are warranted, and if so, what changes should be considered. The workgroup shall consider, among other things:

- (1) state licensing laws;
- (2) the nature, extent, and differences of consumer needs and preferences;
- (3) the qualifications of persons authorized to provide personal care services; and
- (4) the settings in which personal care services are provided, including the life safety codes applicable to those settings.

(b) Not later than December 1, 2006, the workgroup, with the assistance of the Health and Human Services Commission, shall prepare and deliver a report and make recommendations on the issues studied to the governor, the lieutenant governor, and the speaker of the house of representatives.

(c) This section expires February 1, 2007.

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

SB 1055, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

**SB 1074 ON SECOND READING
(Callegari - House Sponsor)**

SB 1074, A bill to be entitled An Act relating to the authority of the Department of Public Safety of the State of Texas or the public safety director to adopt rules in connection with commercial motor vehicles.

Amendment No. 1

Representative Callegari offered the following amendment to **SB 1074**:

Amend **SB 1074** by adding the following appropriately numbered section to the bill and renumbering existing sections accordingly:

SECTION _____. Subsection (a), Section 644.002, Transportation Code, is amended to read as follows:

(a) A federal motor carrier safety regulation prevails over a conflicting provision of this title applicable to a commercial vehicle operated in interstate commerce. A ~~chapter or a~~ rule adopted by the director under this chapter prevails over a conflicting provision of a federal motor carrier safety regulation applicable to a commercial vehicle operated in intrastate commerce.

Amendment No. 1 was adopted.

SB 1074, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1149 ON SECOND READING (Eiland - House Sponsor)

SB 1149, A bill to be entitled An Act relating to the electronic transmission of health benefit information between a health benefit plan issuer and a physician or health care provider.

(Krusee in the chair)

Amendment No. 1

Representative Eiland offered the following amendment to **SB 1149**:

Amend **SB 1149** (house committee printing) in SECTION 1 of the bill as follows:

(1) In added Section 1274.001, Insurance Code (page 1, between lines 13 and 14), add the following new Subdivision (2) and renumber subdivisions appropriately:

(2) "Health benefit plan" means a group, blanket, or franchise insurance policy, a certificate issued under a group policy, a group hospital service contract, or a group subscriber contract or evidence of coverage issued by a health maintenance organization that provides benefits for health care services. The term does not include:

(A) accident-only or disability income insurance coverage or a combination of accident-only and disability income insurance coverage;

(B) credit-only insurance coverage;

(C) disability insurance coverage;

(D) coverage only for a specified disease or illness;

(E) Medicare services under a federal contract;

(F) Medicare supplement and Medicare Select policies regulated in accordance with federal law;

(G) long-term care coverage or benefits, nursing home care coverage or benefits, home health care coverage or benefits, community-based care coverage or benefits, or any combination of those coverages or benefits;

- (H) coverage that provides limited-scope dental or vision benefits;
(I) coverage provided by a single service health maintenance organization;
(J) coverage issued as a supplement to liability insurance;
(K) workers' compensation insurance coverage or similar insurance coverage;
(L) automobile medical payment insurance coverage;
(M) a jointly managed trust authorized under 29 U.S.C. Section 141 et seq. that contains a plan of benefits for employees that is negotiated in a collective bargaining agreement governing wages, hours, and working conditions of the employees that is authorized under 29 U.S.C. Section 157;
(N) hospital indemnity or other fixed indemnity insurance coverage;
(O) reinsurance contracts issued on a stop-loss, quota-share, or similar basis;
(P) liability insurance coverage, including general liability insurance and automobile liability insurance coverage; or
(Q) coverage that provides other limited benefits specified by federal regulations.

(2) In added Section 1274.002, Insurance Code (page 3, line 11), between "STATUS." and "Each", insert "(a)".

(3) In added Section 1274.002, Insurance Code (page 4, between lines 9 and 10), insert Subsection (b) to read as follows:

(b) Information required to be made available under this section may be made available only to a participating provider who is authorized under state and federal law to receive personally identifiable information on an enrollee or dependent.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Eiland offered the following amendment to **SB 1149**:

Amend **SB 1149** (house committee printing) in SECTION 1 of the bill as follows:

(1) In added Chapter 1274, Insurance Code (page 3, between lines 9 and 10), insert the following new section:

Sec. 1274.0015. EXEMPTION. This chapter does not apply to a single-service health maintenance organization that provides coverage only for dental or vision benefits.

(2) In added Section 1274.002, Insurance Code (page 3, lines 14-16), strike "and sufficient for the provider to determine at the time of an enrollee's visit information".

Amendment No. 2 was adopted.

SB 1149, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1271 ON SECOND READING
(Eiland - House Sponsor)

SB 1271, A bill to be entitled An Act relating to fees for licenses issued by the Parks and Wildlife Department.

SB 1271 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Laubenberg recorded voting no.)

SB 1297 ON SECOND READING
(Talton - House Sponsor)

SB 1297, A bill to be entitled An Act relating to the elements of the criminal offense of discharging used oil into water in the state.

Amendment No. 1

Representative Hilderbran offered the following amendment to **SB 1297**:

Amend **SB 1297** (house committee printing) as follows:

(1) Strike the recital to SECTION 2 of the bill (page 1, lines 19 and 20) and substitute the following:

SECTION 2. Section 7.176, Water Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(2) In SECTION 2 of the bill, immediately following amended Section 7.176(a), Water Code (page 3, between lines 5 and 6), insert the following:

(e) For purposes of this section and Section 11.086, "surface water" means any water resulting from precipitation or from naturally or artificially produced groundwater as the water flows on the surface of the earth in sheet flow or in a natural or manmade conveyance until the water evaporates, flows in to a bay, estuary, sea, or ocean, or returns underground by recharge, absorption, or other natural means.

Amendment No. 1 was adopted.

SB 1297, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

SB 1426 ON SECOND READING
(Riddle and Solis - House Sponsors)

SB 1426, A bill to be entitled An Act relating to fees charged to persons applying for the expunction of certain offenses committed by minors.

SB 1426 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 1433 ON SECOND READING
(Rodriguez - House Sponsor)

CSSB 1433, A bill to be entitled An Act relating to the conditions of employment for firefighters employed by certain districts and entities; providing penalties.

Amendment No. 1

Representative Martinez offered the following amendment to **CSSB 1433**:

Amend **CSSB 1433** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 143.005, Local Government Code, is amended to read as follows:

Sec. 143.005. STATUS OF EMPLOYEES IF CHAPTER ADOPTED.

(a) Each fire fighter or police officer serving in a municipality that adopts this chapter and who has been in the service of the municipality for more than six months at the time this chapter is adopted and who is entitled to civil service classification has the status of a civil service employee and is not required to take a competitive examination to remain in the position the person occupies at the time of the adoption.

(b) Emergency medical services personnel who work in the fire department or another municipal department of a municipality that has adopted this chapter, and whose primary duties are to provide emergency medical services, are considered to be members of the fire department performing fire medical emergency technology who are fire fighters entitled to civil service protection. Such emergency medical services personnel shall not be considered members of the fire fighters' bargaining unit in a municipality that has adopted Chapter 174. Such personnel who have been in the service of the municipality for six months on the later of the date this chapter is adopted, or this subsection is added by amendment, have the status of civil service employees and are not required to take a competitive examination to remain in the positions they occupy on that date.

(c) "Emergency medical services personnel" as used in this Section has the meaning assigned by Health and Safety Code Section 773.003. The term applies only to individuals certified under Chapter 773, Health and Safety Code.

(d) If emergency medical services personnel covered by this Chapter work in a municipal department other than the fire department, the department head of such other municipal department will be appointed in accordance with Section 143.013, and will have all duties assigned to the department head by this Chapter.

Amendment No. 1 was adopted.

CSSB 1433, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Keel recorded voting no.)

SB 1507 ON SECOND READING
(Peña - House Sponsor)

SB 1507, A bill to be entitled An Act relating to the introduction of certain evidence in the sentencing phase of a capital felony case.

SB 1507 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1686 ON SECOND READING
(Hardcastle - House Sponsor)

SB 1686, A bill to be entitled An Act relating to the interagency work group on rural issues.

SB 1686 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 747 ON SECOND READING
(Luna - House Sponsor)

SB 747, A bill to be entitled An Act relating to establishing a demonstration project for women's health care services.

Amendment No. 1

On behalf of Representative Chisum, Representative Luna offered the following amendment to **SB 747**:

Amend **SB 747** (House Committee Report) in SECTION 1 of the bill, in proposed Section 32.0248(a)(4), Human Resources Code (page 4, line 1), between "methods" and ", except" by inserting "emphasizing the health benefits of abstinence from sexual activity to recipients who are not married".

Amendment No. 1 was adopted.

SB 747, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: A. Allen, Harper-Brown, Laubenberg, and Phillips recorded voting no.)

SB 1772 ON SECOND READING
(Reyna - House Sponsor)

SB 1772, A bill to be entitled An Act relating to the validation and confirmation of the boundaries and acts of Dallas County Water Control and Improvement District No. 6.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Puente, Representative Reyna offered the following committee amendment to **SB 1772**:

Amend **SB 1772** by striking SECTION 6 of the bill (Senate engrossment, page 15, lines 9-10) and substituting the following:

SECTION 6. NO ADDITIONAL POWERS OR DUTIES; RETAIL WATER UTILITY SERVICE. (a) This Act does not grant any additional powers or duties to the district.

(b) The district may not provide additional retail water utility service in the corporate boundaries of the City of Mesquite other than the service provided on the effective date of this Act without obtaining the city's consent.

Amendment No. 1 was adopted.

SB 1772, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1878 ON SECOND READING
(Reyna - House Sponsor)

SB 1878, A bill to be entitled An Act relating to validating actions of and amending assessments imposed by the Falcon's Lair Utility and Reclamation District, of Dallas County, Texas.

SB 1878 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **SB 1878** under Rule 4, Section 9 and Rule 4, Section 18(a) of the House Rules on the grounds that the committee met while the house was in session without permission.

(Nixon in the chair)

The chair sustained the point of order.

The ruling precluded further consideration of **SB 1878**.

MEMORANDUM BY REPRESENTATIVE DUNNAM

The minutes for the May 19, 2005, meeting of the House Committee on Natural Resources state, "the House Committee on Natural Resources met in a formal meeting and was called to order by the chair, Representative Puente, at 2:40 p.m." House Natural Resources Committee Minutes 1, 79th Legislature, Regular Session (May 19, 2005).

The house recessed on May 19, 2005, at 2:45 p.m. House Journal, page 3679 (79th Legislature).

Therefore, either (a) the House Committee on Natural Resources met while the house was in session and violated Rule 4, Section 9, or (b) the minutes for the May 19, 2005, meeting of the House Committee on Natural Resources inaccurately state the time that the meeting began, thus violating Rule 4, Section 18(a).

For the foregoing reasons the point of order should be sustained.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Castro on motion of Chavez.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

SB 244 ON SECOND READING (Orr - House Sponsor)

SB 244, A bill to be entitled An Act relating to priority of payment relating to property owners' association assessments.

SB 244 was read second time earlier today, postponed until 3:30 p.m., and was again postponed until this time.

SB 244 - POINT OF ORDER

Representative Harper-Brown raised a point of order against further consideration of **SB 244** under Rule 4, Section 33 of the House Rules on the grounds that the committee report for the bill does not contain a fiscal note.

The chair sustained the point of order.

The ruling precluded further consideration of **SB 244**.

SB 1710 ON SECOND READING (Bonnen - House Sponsor)

SB 1710, A bill to be entitled An Act relating to outdoor burning under the Texas Clean Air Act.

Amendment No. 1

Representative Veasey offered the following amendment to **SB 1710**:

Amend **SB 1710** in SECTION 1 of the bill, in proposed Paragraph (A), Subdivision (2), Subsection (b), Section 382.018, Health and Safety Code (page 1, line 18), between "standards" and the semicolon, by inserting "and that does not contain any part of a city that does not meet national ambient air quality standards".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Hughes offered the following amendment to **SB 1710**:

Amend **SB 1710** (House committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Subsection (a), Section 382.018, Health and Safety Code (page 1, line 7), strike "The" and substitute "Except as provided by Subsections (b) and (d), the [~~The~~"]".

(2) In SECTION 1 of the bill, after added Subsection (c), Section 382.018, Health and Safety Code (page 2, between lines 2 and 3), insert the following:

(d) The commission may not control or prohibit outdoor burning of waste consisting of trees, brush, grass, leaves, branch trimmings, or other plant growth if:

(1) the person burning the waste is doing so at a site:

(A) designated for consolidated burning of waste generated from specific residential properties;

(B) located in a county with a population of less than 50,000;

(C) located outside of a municipality; and

(D) supervised at the time of the burning by an employee of a fire department who is part of the fire protection personnel, as defined by Section 419.021, Government Code, of the department and is acting in the scope of the person's employment; and

(2) the waste was generated from a property for which the site is designated.

(e) A fire department employee who will supervise a burning under Subsection (d)(1)(D) shall notify the commission of each burning supervised by the employee, and the commission shall provide the employee with information on practical alternatives to burning.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Burnam offered the following amendment to **SB 1710**:

Amend **SB 1710** (House committee printing) by striking page 1, line 22 through page 2, line 2.

Representative Bonnen moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 796): 102 Yeas, 28 Nays, 3 Present, not voting.

Yeas — Allen, R.; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eiland; Eissler; Elkins; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Gonzalez Tourelles; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst;

Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Mowery; Oliveira; Orr; Otto; Paxton; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Strama; Straus; Swinford; Talton; Taylor; Turner; Van Arsdale; West; Wong; Woolley.

Nays — Allen, A.; Alonzo; Burnam; Coleman; Dukes; Dunnam; Dutton; Farrar; Flores; Gonzales; Goodman; Herrero; Jones, J.; Leibowitz; Martinez; Martinez Fischer; McClendon; Naishtat; Noriega, M.; Olivo; Peña; Rodriguez; Solis; Thompson; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker; Nixon(C); Quintanilla.

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons; Zedler.

Absent — Bailey; Davis, Y.; Edwards; Escobar; Haggerty; King, T.; Menendez; Moreno, P.; Seaman; Truitt.

STATEMENT OF VOTE

I was shown voting no on Record No. 796. I intended to vote yes.

Peña

Amendment No. 4

Representative Burnam offered the following amendment to **SB 1710**:

Amend **SB 1710** by striking the word "shall" in line 12, and replacing with word the "may".

Representative Bonnen moved to table Amendment No. 4.

(Zedler now present)

A record vote was requested.

The motion to table prevailed by (Record 797): 107 Yeas, 25 Nays, 3 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Eiland; Eissler; Elkins; Farabee; Farrar; Flynn; Frost; Gattis; Geren; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; McCall; McReynolds; Merritt; Miller; Morrison; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Coleman; Davis, Y.; Dukes; Dunnam; Flores; Gallego; Gonzales; Herrero; Hochberg; Jones, J.; Leibowitz; Martinez; Martinez Fischer; McClendon; Naishtat; Noriega, M.; Olivo; Rodriguez; Thompson; Veasey; Villarreal.

Present, not voting — Mr. Speaker; Nixon(C); Quintanilla.

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Dutton; Edwards; Escobar; Goodman; Menendez; Moreno, P.; Mowery; Seaman; Vo.

A record vote was requested.

SB 1710, as amended, was passed to third reading by (Record 798): 118 Yeas, 16 Nays, 4 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Callegari; Campbell; Casteel; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; Farabee; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Noriega, M.; Oliveira; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Raymond; Reyna; Riddle; Ritter; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Coleman; Edwards; Farrar; Goodman; Herrero; Hochberg; Leibowitz; Martinez; Naishtat; Olivo; Rodriguez; Thompson.

Present, not voting — Mr. Speaker; Jones, J.; Nixon(C); Quintanilla.

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Brown, F.; Dukes; Escobar; Flores; Moreno, P.; Seaman.

SB 1740 ON SECOND READING
(Bonnen - House Sponsor)

SB 1740, A bill to be entitled An Act relating to construction activities allowed while an application is pending with the Texas Commission on Environmental Quality.

Amendment No. 1

Representative Bonnen offered the following amendment to **SB 1740**:

Amend **SB 1740** (House Committee Printing) by inserting the following appropriately numbered new SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 382.05195, Health and Safety Code, is amended by adding Subsection (j) to read as follows:

(j) If a standard permit for a facility requires a distance, setback, or buffer from other property or structures as a condition of the permit, the determination of whether the distance, setback, or buffer is satisfied shall be made on the basis of conditions existing at the earlier of:

(1) the date construction begins on the facility; or
(2) the date any application or notice of intent is first filed with the commission to obtain approval for the construction or operation of the facility.

Amendment No. 1 was adopted.

SB 1740, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: A. Allen, Leibowitz, and Thompson recorded voting no.)

CSSB 9 ON SECOND READING
(Corte - House Sponsor)

CSSB 9, A bill to be entitled An Act relating to homeland security; providing a penalty.

Amendment No. 1

Representative Corte offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House Committee Printing) as follows:

(1) In SECTION 11 of the bill, in added Section 421.095(1)(C)(i), Government Code (page 6, line 13), between "Protection" and the semicolon, insert "or by the State Firemen's and Fire Marshals' Association of Texas".

(2) In SECTION 13 of the bill, in added Subsection (a-1), Section 791.006, Government Code (page 8, line 16), strike "the services of a fire department" and substitute "fire or emergency services".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Corte offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ___. Section 421.026, Government Code, is amended to read as follows:

Sec. 421.026. REPORT. The council shall annually submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report stating:

- (1) the council's progress in developing and coordinating a statewide critical infrastructure protection strategy;
- (2) the status and funding of state programs designed to detect and deter homeland security emergencies, including the status and funding of counterterrorism efforts;
- (3) recommendations on actions to reduce threats to homeland security, including threats related to terrorism; and
- (4) recommendations for improving the alert, response, and recovery capabilities of state and local agencies.

SECTION __. Chapter 421, Government Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. PERMANENT SPECIAL ADVISORY COMMITTEES

Sec. 421.041. FIRST RESPONDER ADVISORY COUNCIL. (a) The First Responder Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to first responders, radio interoperability, the integration of statewide exercises for hazards, and the related use of available funding.

(b) The council is composed of:

(1) one representative for each of the following sectors of the state, appointed by the governor or the governor's designee:

- (A) law enforcement;
- (B) firefighters;
- (C) private first responders; and
- (D) emergency medical services; and

(2) other members, as determined by the governor or the governor's designee.

Sec. 421.042. PRIVATE SECTOR ADVISORY COUNCIL. (a) The Private Sector Advisory Council is a permanent special advisory committee created to advise the governor or the governor's designee on homeland security issues relevant to the private sector.

(b) The council is composed of:

(1) one representative of a private organization or entity for each of the following sectors of the state, each appointed by the governor or the governor's designee:

- (A) agriculture and food;
- (B) banking and finance;
- (C) chemicals and hazardous materials;
- (D) the defense industry;
- (E) energy;
- (F) emergency services;
- (G) information technology;
- (H) telecommunications;
- (I) postal and shipping;

- (J) public health;
- (K) transportation;
- (L) ports and waterways; and
- (M) national monuments and icons; and

(2) other members, as determined by the governor or the governor's designee.

Sec. 421.043. ELIGIBILITY. (a) To be eligible for appointment as a member of a permanent special advisory committee created under this subchapter, a person must demonstrate experience in the sector that the person is under consideration to represent and be directly involved in related policies, programs, or funding activities that are relevant to homeland security or infrastructure protection.

(b) Each member of a permanent special advisory committee created under this subchapter serves at the will of the governor.

Sec. 421.044. COMPENSATION AND REIMBURSEMENT OF EXPENSES PROHIBITED. A person who is a member of a permanent special advisory committee created under this subchapter is not entitled to receive compensation from this state for service on the committee or travel expenses incurred by the person while conducting the business of the committee.

Sec. 421.045. DUTIES. Each permanent special advisory committee created under this subchapter shall advise the governor on:

(1) the development and coordination of a statewide critical infrastructure protection strategy;

(2) the implementation of the governor's homeland security strategy by state and local agencies and provide specific suggestions for helping those agencies implement the strategy;

(3) specific priorities related to the governor's homeland security strategy that the committee determines to be of significant importance to the statewide security of critical infrastructure; and

(4) other matters related to the planning, development, coordination, and implementation of initiatives to promote the governor's homeland security strategy.

SECTION __. Sections 421.072(a) and (c), Government Code, are amended to read as follows:

(a) The office of the governor shall:

(1) allocate available federal and state grants and other funding related to homeland security to state and local agencies and defense base development authorities created under Chapter 379B, Local Government Code, that perform homeland security activities;

(2) periodically review the grants and other funding for appropriateness and compliance; ~~and~~

(3) designate state administering agencies to administer all grants and other funding to the state related to homeland security; and

(4) measure the effectiveness of the homeland security grants and other funding.

(c) A state or local agency or defense base development authority that receives a grant or other funding related to homeland security must provide an annual report to the office of the governor detailing:

(1) the [agency's] compliance of the agency or authority with the state homeland security strategy;

(2) any expenditures made using the funding;

(3) any programs developed or implemented using the funding; and

(4) the manner in which any expenditures made or programs developed or implemented have improved the ability of the agency or authority to detect, deter, respond to, and recover from a terrorist attack.

SECTION __. The governor shall make all required appointments to the First Responder Advisory Council and the Private Sector Advisory Council, in accordance with Subchapter B-1, Chapter 421, Government Code, as added by this Act, not later than December 1, 2005.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Corte offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____. Section 121.201(a), Utilities Code, is amended to read as follows:

(a) The railroad commission by rule may:

(1) adopt safety standards for the transportation of gas and for gas pipeline facilities;

(1-a) adopt safety standards and best practices related to the prevention of damage to a gas pipeline facility resulting from the movement of earth by a person in the vicinity of the facility, including the standards and best practices described under 49 U.S.C. Section 60105 et seq.;

(2) require an operator that does not file operator organization information under Section 91.142, Natural Resources Code, to provide the information to the commission in the form of an application;

(3) require record maintenance and reports;

(4) inspect records and facilities to determine compliance with adopted safety standards;

(5) make certifications and reports;

(6) seek designation by the United States secretary of transportation as an agent to conduct safety inspections of interstate gas pipeline facilities located in this state; and

(7) take any other requisite action in accordance with 49 U.S.C. Section 60101 et seq., or a succeeding law.

SECTION ____. Section 117.012, Natural Resources Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) The commission by rule shall adopt safety standards and best practices related to the prevention of damage to an intrastate hazardous liquid or carbon dioxide pipeline facility resulting from the movement of earth by a person in the vicinity of the facility, including the standards and best practices described under 49 U.S.C. Section 60105 et seq.

Amendment No. 3 was withdrawn.

Amendment No. 4

Representative Corte offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter G, Chapter 756, Health and Safety Code, as added by Chapter 1082, Acts of the 78th Legislature, Regular Session, 2003, is amended by adding Section 756.106 to read as follows:

Sec. 756.106. SAFETY STANDARDS AND BEST PRACTICES. The Railroad Commission of Texas shall adopt and enforce safety standards and best practices, including those described by 49 U.S.C. Section 6105 et seq., relating to the prevention of damage by a person to a facility under the jurisdiction of the commission.

SECTION _____. The Railroad Commission of Texas shall adopt the safety standards and best practices required by Section 756.106, Health and Safety Code, as added by this Act, not later than June 1, 2007.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Hardcastle offered the following amendment to **CSSB 9**:

Amend **CSSB 9** as follows:

Insert the following appropriately numbered SECTION and renumber subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 752.006, Health and Safety Code, is repealed.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Raymond offered the following amendment to **CSSB 9**:

Amend **CSSB 9** (House Committee Printing) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The governor's office of homeland security shall conduct a study to evaluate the security of seaports in this state.

(b) Not later than December 1, 2006, the governor's office of homeland security shall report its findings to the:

- (1) legislature;
- (2) lieutenant governor;
- (3) speaker of the house of representatives; and

(4) governor.

(c) The report shall include:

(1) an evaluation of the compliance of relevant entities with the requirements of the federal Maritime Transportation Security Act of 2002 (Pub. L. No. 107-295) and other federal law applicable to the security of seaports in this state, including the degree of compliance of relevant entities with any credentialing systems required by federal law;

(2) a summary of the degree to which seaports in this state have implemented security procedures to ensure that all employees and contractors receive appropriate security screening before being provided with access to port locations or sensitive information relating to ports;

(3) a summary of the degree to which seaports in this state have implemented any security fees; and

(4) an accounting of the total amount of homeland security grants and other homeland security funding that have been provided to seaports in this state for security purposes and the manner in which those funds have been spent by the recipients.

(d) This section expires September 1, 2007.

Representative Corte moved to table Amendment No. 6.

The motion to table prevailed.

CSSB 9, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 343 ON SECOND READING (Geren - House Sponsor)

CSSB 343, A bill to be entitled An Act relating to the regulation of the placement of water wells and the installation and maintenance of well pumps and equipment; providing a penalty.

Amendment No. 1

Representative Geren offered the following amendment to **CSSB 343**:

Amend **CSSB 343** (House Committed Printing) as follows:

(1) On page 1, line 22, after the word "drilling" and before the word "into" insert "of a domestic well".

(2) On page 8, line 10, after the word "Code;" strike the word "and"

(3) On page 8, strike lines 11-12 and substitute the following:

(18) the installation, maintenance, alteration, or repair of well pumps and equipment in accordance with Chapter 1902; and

(19) electrical work performed on a building, structure, or equipment in agricultural use as defined by Section 11.002, Water Code, other than the processing of an agricultural commodity.

Amendment No. 1 was adopted.

A record vote was requested.

CSSB 343, as amended, was passed to third reading by (Record 799): 137 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Tourelles; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Bonnen.

Present, not voting — Mr. Speaker; Nixon(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Burnam; Edwards; Flores; Goolsby.

STATEMENT OF VOTE

When Record No. 799 was taken, I was in the house but away from my desk. I would have voted yes.

Edwards

SB 89 ON SECOND READING (Denny - House Sponsor)

SB 89, A bill to be entitled An Act relating to electronically readable information on a driver's license, commercial driver's license, or personal identification certificate.

(Speaker in the chair)

Amendment No. 1

Representative Denny offered the following amendment to **SB 89**:

Amend **SB 89** as follows:

(1) Add the following appropriately numbered section to the bill and renumber the remaining sections of the bill appropriately:

SECTION __. Chapter 63, Election Code, is amended by adding Section 63.0102 to read as follows:

Sec. 63.0102. USE OF CERTAIN ELECTRONICALLY READABLE INFORMATION. (a) An election officer may access electronically readable information on a driver's license or personal identification card for proof of identification when determining whether a voter shall be accepted for voting.

(b) The secretary of state shall prescribe any necessary procedures to implement this section.

(2) On page 1, strike lines 23-24 and substitute the following:

(5) an election officer who accesses or uses the information to determine the identity of a voter as authorized by Section 63.0102, Election Code.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Denny offered the following amendment to **SB 89**:

Amend **SB 89** (house committee printing) as follows:

(1) Add the following appropriately numbered section to the bill and renumber the remaining sections appropriately:

SECTION __. (a) Chapter 62, Election Code, is amended by adding Section 62.016 to read as follows:

Sec. 62.016. NOTICE OF ACCEPTABLE IDENTIFICATION OUTSIDE POLLING PLACES. The presiding judge shall post in a prominent place on the outside of each polling location notice that a provisional ballot will be provided to a person who executes the appropriate affidavit and a list of the acceptable forms of photographic and nonphotographic identification. The notice and list must be printed:

(1) in English, Spanish, and any other language appropriate to the precinct in which the polling place is located; and

(2) using a font that is at least 24 point.

(b) Section 63.001, Election Code, is amended by amending Subsections (b), (c), (d), and (f) and adding Subsection (g) to read as follows:

(b) On offering to vote, a voter must present to an election officer at the polling place the voter's voter registration certificate and either:

(1) one form of identification listed in Section 63.0101(a); or

(2) two different forms of identification listed in Section 63.0101(b) [~~to an election officer at the polling place~~].

(c) On presentation of the documentation required by Subsection (b) [~~a registration certificate~~], an election officer shall determine whether the voter's name on the registration certificate is on the list of registered voters for the precinct.

(d) If the voter's name is on the precinct list of registered voters and the voter's identity can be verified from the proof presented, the voter shall be accepted for voting.

(f) After determining whether to accept a voter, an election officer shall return the voter's documentation [~~registration certificate~~] to the voter.

(g) If the requirements for identification prescribed by Subsection (b)(1) or (2) are not met, the voter shall be accepted for provisional voting only under Section 63.011.

(c) Chapter 63, Election Code, is amended by adding Section 63.0012 to read as follows:

Sec. 63.0012. USE OF ADDRESS ON IDENTIFICATION. (a) This section applies only to a voter who:

(1) presents a registration certificate;

(2) is on the list of registered voters for the precinct; and

(3) confirms the address on the list of registered voters is current under

Section 63.0011.

(b) In verifying the identity of a voter described by Subsection (a) under Section 63.001, an election officer may not consider whether the voter's address on a form described by Section 63.001(b)(1) or (2) matches the voter's address on the registration certificate or the list of registered voters.

(d) Section 63.006(a), Election Code, is amended to read as follows:

(a) A voter who, when offering to vote, presents a voter registration certificate indicating that the voter is currently registered in the precinct in which the voter is offering to vote, but whose name is not on the precinct list of registered voters, shall be accepted for voting if the voter's identity can be verified from the proof presented.

(e) Section 63.007(a), Election Code, is amended to read as follows:

(a) A voter who, when offering to vote, presents a voter registration certificate indicating that the voter is currently registered in a different precinct from the one in which the voter is offering to vote, and whose name is not on the precinct list of registered voters, shall be accepted for voting if the voter's identity can be verified from the proof presented and the voter executes an affidavit stating that the voter:

(1) is a resident of the precinct in which the voter is offering to vote or is otherwise entitled by law to vote in that precinct;

(2) was a resident of the precinct in which the voter is offering to vote at the time that information on the voter's residence address was last provided to the voter registrar;

(3) did not deliberately provide false information to secure registration in a precinct in which the voter does not reside; and

(4) is voting only once in the election.

(f) Section 63.008(a), Election Code, is amended to read as follows:

(a) A voter who does not present a voter registration certificate when offering to vote, but whose name is on the list of registered voters for the precinct in which the voter is offering to vote, shall be accepted for voting if the voter executes an affidavit stating that the voter does not have the voter's voter registration certificate in the voter's possession at the polling place at the time of offering to vote and the voter's identity can be verified from the proof presented [~~voter presents proof of identification in a form described by Section 63.0101~~].

(g) Section 63.0101, Election Code, is amended to read as follows:

Sec. 63.0101. DOCUMENTATION OF PROOF OF IDENTIFICATION.

(a) The following documentation is an acceptable form [~~as proof~~] of photo identification under this chapter:

(1) a driver's license or personal identification card issued to the person by the Department of Public Safety that has not expired or that expired no earlier than two years before the date of presentation [~~or a similar document issued to the person by an agency of another state, regardless of whether the license or card has expired~~];

(2) a United States military identification card that contains the person's photograph [~~form of identification containing the person's photograph that establishes the person's identity~~];

(3) a valid employee identification card that contains the person's photograph and is issued by an employer of the person in the ordinary course of the employer's business [~~birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity~~];

(4) a United States citizenship certificate [~~papers~~] issued to the person that contains the person's photograph;

(5) a United States passport issued to the person;

(6) a student identification card issued by a public or private institution of higher education that contains the person's photograph [~~official mail addressed to the person by name from a governmental entity~~];

(7) a license to carry a concealed handgun issued to the person by the Department of Public Safety;

(8) an identification card issued by a state agency of this state that contains the person's photograph; or

(9) an identification card that contains the person's photograph and is issued by a county elections administrator or a county clerk.

(b) The following documentation is acceptable as proof of identification under this chapter:

(1) a copy of a current utility bill, bank statement, government check, paycheck, or other government document that shows the name and address of the voter;

(2) official mail addressed to the person by name from a governmental entity;

(3) a certified copy of a birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity;

(4) United States citizenship papers issued to the person;

(5) an original or certified copy of the person's marriage license or divorce decree;

(6) court records of the person's adoption, name change, or sex change;

(7) an identification card issued to the person by a governmental entity of this state or the United States for the purpose of obtaining public benefits, including veteran's benefits, Medicaid, or Medicare;

(8) a temporary driving permit issued to the person by the Department of Public Safety;

(9) a pilot's license issued to the person by the Federal Aviation Administration or another authorized agency of the United States;

(10) a library card that contains the person's name issued to the person by a public library located in this state; or

(11) a hunting or fishing license issued to a person by the Parks and Wildlife Department ~~or~~

~~[(8) any other form of identification prescribed by the secretary of state].~~

(c) The commissioners court of a county may authorize the county elections administrator or the county clerk, as applicable, to issue photo identification cards that may be used as proof of a voter's identification under Subsection (a).

(h) Sections 63.011(a) and (b), Election Code, are amended to read as follows:

(a) A person to whom Section 63.001(g), 63.008(b), or 63.009(a) applies may cast a provisional ballot if the person executes an affidavit stating that the person:

(1) is a registered voter in the precinct in which the person seeks to vote; and

(2) is eligible to vote in the election.

(b) A form for the affidavit shall be printed on an envelope in which the provisional ballot voted by the person may be placed and must include a space for entering the identification number of the provisional ballot voted by the person and a space for an election officer to indicate whether the person presented proof of identification as required by Section 63.001(b)(1) or (2). The affidavit form may include space for disclosure of any necessary information to enable the person to register to vote under Chapter 13. The secretary of state shall prescribe the form of the affidavit under this section.

(i) Section 65.054(b), Election Code, is amended to read as follows:

(b) A provisional ballot may be accepted only if:

(1) the board determines that, from the information in the affidavit or contained in public records, the person is eligible to vote in the election; and

(2) the voter presents proof of identification as required by Section 63.001(b)(1) or (2):

(A) at the time the ballot was cast; or

(B) in the period prescribed under Section 65.0541.

(j) Subchapter B, Chapter 65, Election Code, is amended by adding Section 65.0541 to read as follows:

Sec. 65.0541. PRESENTATION OF IDENTIFICATION FOR CERTAIN PROVISIONAL BALLOTS. (a) A voter who is accepted for provisional voting under Section 63.011 because the voter does not present proof of identification as required by Section 63.001(b)(1) or (2) may submit proof of identification to the voter registrar by personal delivery or by mail for examination by the early voting ballot board not later than the fifth day after the date of the election.

(b) The early voting ballot board shall accept a provisional ballot under Section 65.054 if the voter:

(1) presents proof of identification in the manner required by this section; and

(2) is otherwise eligible to vote in the election.

(c) The office of the voter registrar shall be open on a Saturday that falls within the five-day period described by Subsection (a) for a voter to present identification as provided under this section.

(d) The secretary of state shall prescribe procedures as necessary to implement this section.

(k) Section 521.422, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsection (d), the [The] fee for a personal identification certificate is:

(1) \$15 for a person under 60 years of age;

(2) \$5 for a person 60 years of age or older; and

(3) \$20 for a person subject to the registration requirements under Chapter 62, Code of Criminal Procedure.

(d) The department may not collect a fee for a personal identification certificate issued to a person who executes an affidavit stating that the person is financially unable to pay the required fee and:

(1) who is a registered voter in this state and presents a valid voter registration certificate; or

(2) who is eligible for registration under Section 13.001, Election Code, and submits a registration application to the department.

(2) Strike SECTION 2 of the bill (page 2, lines 1-5) and substitute the following:

SECTION 2. (a) Except as otherwise provided by this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

(b) Section __ of this Act, amending Chapters 62, 63, and 65, Election Code, and Section 521.422, Transportation Code, takes effect September 1, 2005.

Amendment No. 2 - Point of Order

Representative Gallego raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The speaker overruled the point of order and had read the following statement:

Representatives Gallego and Turner raised a point of order against further consideration of the Denny amendment to **SB 89** on the grounds that the amendment violates Rule 11, Section 2 in that it is not germane.

SB 89 contains provisions relating to Chapter 63, Election Code, which relates to the acceptance of voters who wish to participate in elections by voting. The Denny amendment also amends provisions in Chapter 63, Election Code, and because it does such, is germane to the bill.

Therefore, the point of order is respectfully overruled.

(Giddings now present)

A record vote was requested.

Amendment No. 2 was adopted by (Record 800): 81 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Homer; Hopson; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Rose; Solomons.

Absent — Davis, J.; Mowery; Smithee.

Amendment No. 3

Representative Coleman offered the following amendment to **SB 89**:

Amend **SB 89**, as amended, by striking "September 1, 2005" and substituting "September 1, 2008".

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 7**:

Giddings on motion of Turner.

SB 89 - (consideration continued)

Representative Denny moved to table Amendment No. 3.

A record vote was requested.

The motion to table prevailed by (Record 801): 80 Yeas, 60 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Straus; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Guillen; Herrero; Hochberg; Homer; Hopson; Jones, D.; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Elkins; Haggerty; Swinford.

Amendment No. 4

Representative Alonzo offered the following amendment to **SB 89**:

Amend **SB 89** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION _____. For purposes of Section 63.0101, Election Code, as amended by this Act, identity document that is issued by the government of another country is an acceptable form of a photo identification if:

(1) the identification contains the person's photograph, full name, and date of birth; and

(2) as determined by the secretary of state, the government of the other country has established reasonable mechanisms by which the agency can verify the identity document.

Representative Denny moved to table Amendment No. 4.

A record vote was requested.

The motion to table prevailed by (Record 802): 88 Yeas, 54 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eiland; Eissler; Elkins; Flynn; Gattis; Geren; Goodman; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Madden; McCall; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Seaman; Smith, T.; Smith, W.; Smithee; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gonzales; Gonzalez Tourelles; Guillen; Haggerty; Herrero; Hochberg; Jones, J.; Keel; King, T.; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Strama.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

SB 89 - (consideration continued)

Amendment No. 5

Representative Anchia offered the following amendment to **SB 89**:

Amend **SB 89** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The county voter registrar shall issue voter registration certificates that contain a photograph of the person issued the voter registration certificate in a form prescribed by the secretary of state.

(b) The certificate issued under Subsection (a) of this section is an acceptable form of photo identification under Section 63.0101, Election Code, as amended by this Act.

Representative Denny moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 803): 76 Yeas, 61 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Callegari; Casteel; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Miller; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, W.; Smithee; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Homer; Hopson; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smith, T.; Solis; Strama; Thompson; Turner; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Brown, B.; Campbell; Chisum; King, P.; Morrison; Uresti.

STATEMENT OF VOTE

When Record No. 803 was taken, I was in the house but away from my desk. I would have voted yes.

B. Brown

Amendment No. 6

Representative Veasey offered the following amendment to **SB 89**:

Amend **SB 89** by adding a new appropriately numbered section to read as follows and by renumbering the existing sections as appropriate:

SECTION __. Chapter 63, Election Code, is amended by adding Section 63.0012 to read as follows:

Sec. 63.0012. USE OF ADDRESS ON IDENTIFICATION. (a) This section applies only to a voter who:

- (1) presents a registration certificate;
- (2) is on the list of registered voters for the precinct; and
- (3) confirms the address on the list of registered voters is current under

Section 63.0011.

(b) In verifying the identity of a voter described by Subsection (a) under Section 63.001, an election officer may not consider whether the voter's address on a form described by Section 63.001(b)(1) or (2) matches the voter's address on the registration certificate or the list of registered voters.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Leibowitz offered the following amendment to **SB 89**:

Amend **SB 89** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. The requirements contained in this Act of providing two forms of identification do not apply to a person who is 85 years of age or older.

SB 89 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOCHBERG: I have sort of lost track of where we are and, as you remember, if you get a movement without motion on a previous question, you don't get to have a debate about it. Can you just remind me of what the original bill accomplished? I've lost track of that.

REPRESENTATIVE DENNY: The original bill requires one form of photo ID or two forms of non-photo ID off of an approved list. It also—the amendments—as the bill passed out of here—the amendments that were accepted are in the amendments I brought to you today. We didn't go back to the original bill and strip those out. They are in the amendments that we adopted here.

HOCHBERG: So, what you just described to me are the amendments that have gone on to **SB 89**.

DENNY: I'm sorry, what?

HOCHBERG: What you have just described to me are the amendments that have gone on to **SB 89**?

DENNY: Correct.

HOCHBERG: Okay, when I said original bill, what does **SB 89** do?

DENNY: Oh, **SB 89**, I'm sorry.

HOCHBERG: I'm not sure whether I want to vote for **SB 89** yet. If you could just give me a quickie on that.

DENNY: Sure. **SB 89** authorized the magnetic strip on the back of a driver's license or personal ID card that's issued by DPS to access electronically readable information for governmental purposes. That ability was accidentally removed in the last legislative session in **SB 1445** by the independent banker. They removed election officers from governmental purposes and this adds it back in.

HOCHBERG: So this adds it back into the list of people who are not subject to an offense if they read that information.

DENNY: Correct.

HOCHBERG: Okay, thank you.

REMARKS ORDERED PRINTED

Representative Hochberg moved to print remarks between Representative Denny and Representative Hochberg.

The motion prevailed.

(P. King in the chair)

Representative Denny moved to table Amendment No. 7.

A record vote was requested.

The motion to table was lost by (Record 804): 62 Yeas, 75 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hupp; Isett; Jackson; Keel; Keffer, B.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Straus; Swinford; Talton; Taylor; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Blake; Burnam; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Griggs; Guillen; Haggerty; Hamilton; Herrero; Hochberg; Homer; Hopson; Hughes; Hunter; Jones, D.; Jones, J.; Keffer, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Truitt; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker; King, P.(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Baxter; Campbell; Goolsby; Hardcastle; Smithee.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 804. I intended to vote no.

Anderson

I was shown voting yes on Record No. 804. I intended to vote no.

Kuempel

(Speaker in the chair)

A record vote was requested.

Amendment No. 7 was adopted by (Record 805): 75 Yeas, 67 Nays, 1 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Anderson; Bailey; Blake; Burnam; Chavez; Coleman; Cook, B.; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Goodman; Goolsby;

Griggs; Guillen; Hamilton; Herrero; Hochberg; Homer; Hopson; Hughes; Hunter; Jones, D.; Jones, J.; Keffer, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smith, T.; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Nays — Allen, R.; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Elkins; Flynn; Gattis; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hupp; Isett; Jackson; Keel; Keffer, B.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, W.; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Smithee.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 805. I intended to vote no.

Eissler

I was shown voting no on Record No. 805. I intended to vote yes.

Kuempel

Amendment No. 8

Representative Rodriguez offered the following amendment to **SB 89**:

Amend **SB 89**:

(1) In the recital to amended Section 63.001, Election Code, strike "Subsection (g)" and substitute "Subsections (g) and (h)".

(2) In the section amending Section 63.001, Election Code, add a new Subsection (h) to read as follows:

(h) The requirements for identification prescribed by Subsection (b)(1) or (2) do not apply to a voter who:

(1) presents the voter's voter registration certificate on offering to vote;
and

(2) is 85 years of age or older as indicated by the date of birth on the voter's voter registration certificate.

Amendment No. 8 was withdrawn.

Amendment No. 9

Representative Rodriguez offered the following amendment to **SB 89**:

Amend **SB 89** as follows:

(1) Strike SECTIONS 7 and 8 of the bill.

(2) Add a new appropriately numbered section to read as follows:

SECTION _____. Section 65.054, Election Code, is amended by adding Subsection (e) to read as follows:

(e) A provisional ballot may not be rejected on the basis of the failure of the voter to present proof of identification as described by Section 63.001(b)(1) or (2) unless the board determines that the voter is not the person whom the voter claimed to be in executing an affidavit under Section 63.011.

(3) Renumber the remaining SECTIONS of the bill as appropriate.

Representative Denny moved to table Amendment No. 9.

A record vote was requested.

The motion to table prevailed by (Record 806): 82 Yeas, 57 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Homer; Hopson; Jones, J.; King, T.; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Dukes; Hope; Jackson; Laney.

SB 89 - MOTION FOR PREVIOUS QUESTION

Representative Nixon moved the previous question on passage to third reading on **SB 89**.

The motion was seconded by Representatives Bohac, Bonnen, F. Brown, Callegari, Casteel, Corte, Driver, Eissler, Elkins, Flynn, Grusendorf, Harper-Brown, Hope, Hunter, J. Keffer, Kuempel, Miller, Nixon, Olivo, Reyna, Seaman, Straus, Swinford, Talton, Wong, and Woolley.

A record vote was requested.

The motion for the previous question prevailed by (Record 807): 79 Yeas, 62 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, B.; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Guillen; Herrero; Hochberg; Homer; Hopson; Jones, D.; Jones, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Davis, J.; Kolkhorst.

A record vote was requested.

SB 89, as amended, was passed to third reading by (Record 808): 83 Yeas, 59 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Chavez; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Guillen; Herrero; Hochberg; Homer; Hopson; Jones, J.; King, T.;

Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Rose; Solomons.

Absent — Davis, J.

SB 132 ON SECOND READING
(Morrison - House Sponsor)

SB 132, A bill to be entitled An Act relating to goals and strategies concerning the number of graduates from professional nursing education programs.

Amendment No. 1 (Committee Amendment No. 1)

Representative Goolsby offered the following amendment to **SB 132**:

Amend **SB 132** (Senate Engrossment) as follows:

(1) In SECTION 2 of the bill, strike amended Paragraph (B), Subdivision (1), Subsection (a), Section 61.9623, Education Code (page 2, lines 14-16), and substitute "(B) nursing faculty enhancement in accordance with Section 61.96231 ~~[assuring the retention of an adequate number of qualified faculty, including providing faculty salaries];[or]~~".

(2) In SECTION 3 of the bill, in amended Section 61.9624, Education Code (page 3, line 21), strike "Sections 61.9623(a)(1)(A), ~~[and] B,~~ and (D)" and substitute "Sections 61.9623(a)(1)(A) and (D) [B]".

(3) Add the following appropriately numbered new SECTIONS to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____ . Subchapter D, Chapter 54, Education Code, is amended by adding Sections 54.221 and 54.222 to read as follows:

Sec. 54.221. CHILDREN OF PROFESSIONAL NURSING PROGRAM FACULTY. (a) In this section:

(1) "Child" means a child of any age, including an adult child. The term includes an adopted child.

(2) "Graduate professional nursing program" means an educational program of a public or private institution of higher education that prepares students for a master's or doctoral degree in nursing.

(3) "Undergraduate professional nursing program" means a public or private educational program for preparing students for initial licensure as registered nurses.

(b) The governing board of an institution of higher education shall exempt from the payment of tuition a resident of this state enrolled as an undergraduate student at the institution who is a child of a person who, at the beginning of the semester or other academic term for which an exemption is sought, holds a master's or doctoral degree in nursing, if not employed or under contract as a

teaching assistant under Subdivision (1) or (2), or a baccalaureate degree in nursing, if employed or under contract as a teaching assistant under Subdivision (1) or (2), and:

(1) is employed by an undergraduate or graduate professional nursing program in this state as a full-time member of its faculty or staff with duties that include teaching, serving as a teaching assistant, performing research, serving as an administrator, or performing other professional services; or

(2) has contracted with an undergraduate or graduate professional nursing program in this state to serve as a full-time member of its faculty or staff to perform duties described by Subdivision (1) during all or part of the semester or other academic term for which an exemption is sought or, if the child is enrolled for a summer session, during all or part of that session or for the next academic year.

(c) A child who would qualify for an exemption under this section but for the fact that the child's parent is not employed full-time is eligible for an exemption on a pro rata basis equal to the percentage of full-time employment the parent is employed, except that a parent employed for less than 25 percent of full-time employment is considered to be employed for 25 percent of full-time employment.

(d) A person is not eligible for an exemption under this section if the person:

(1) has previously received an exemption under this section for 10 semesters or summer sessions at any institution or institutions of higher education; or

(2) has received a baccalaureate degree.

(e) For purposes of Subsection (d), a summer session that is less than nine weeks in duration is considered one-half of a summer session.

(f) A person attending an institution of higher education who becomes eligible to receive an exemption from tuition under this section is eligible for a refund of the amount of money that the person paid to any institution of higher education for tuition as a resident student in the three-year period preceding the beginning of the first semester or other academic term for which the person receives the exemption.

(g) To receive a refund under Subsection (f), the person must apply to the institution from which the refund is sought before the first anniversary of the date the person becomes eligible for the refund. The institution shall pay the refund from any available funds of the institution.

(h) The Texas Higher Education Coordinating Board shall adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of eligibility for an exemption or for a refund of previously paid tuition; and

(2) a uniform application form for an exemption under this section.

Sec. 54.222. PRECEPTORS FOR PROFESSIONAL NURSING EDUCATION PROGRAMS. (a) In this section, "child" and "undergraduate professional nursing program" have the meanings assigned by Section 54.221.

(b) The governing board of an institution of higher education shall exempt from the payment of \$500 of the total amount of tuition a resident of this state enrolled as a student at the institution who:

(1) is a registered nurse; and

(2) is serving under a written preceptor agreement with an undergraduate professional nursing program as a clinical preceptor for students enrolled in the program for the semester or other academic term for which the exemption is sought.

(c) The governing board of an institution of higher education shall exempt from the payment of \$500 of the total amount of tuition a resident of this state enrolled as an undergraduate student at the institution who is a child of a person who meets the requirements of Subsections (b)(1) and (2).

(d) Notwithstanding Subsections (b) and (c), if a person eligible for an exemption under this section owes less than \$500 in tuition, the governing board of the institution of higher education in which the person is enrolled shall exempt the person from the payment of only the amount of tuition the person owes.

(e) A person is not eligible for an exemption under Subsection (c) if the person:

(1) has previously received an exemption under this section for 10 semesters or summer sessions at any institution or institutions of higher education; or

(2) has received a baccalaureate degree.

(f) For purposes of Subsection (e), a summer session that is less than nine weeks in duration is considered one-half of a summer session.

(g) The Texas Higher Education Coordinating Board shall adopt:

(1) rules governing the granting or denial of an exemption under this section, including rules relating to the determination of eligibility for an exemption; and

(2) a uniform application form for an exemption under this section.

SECTION ____ . Subchapter Z, Chapter 61, Education Code, is amended by adding Section 61.96231 to read as follows:

Sec. 61.96231. NURSING FACULTY ENHANCEMENT GRANTS. (a) Under the professional nursing shortage reduction program, the board may award nursing faculty enhancement grants to professional nursing programs to assist the programs in the education, recruitment, and retention of a sufficient number of faculty members to enable the programs to enroll a sufficient number of students to meet the state's need for registered nurses.

(b) A grant awarded under this section may be used only for the purposes specified by Subsection (a), including providing salary supplements and enhancements and reducing the number of hours a faculty member must teach.

(c) In awarding a grant under this section, the board may require matching funds from a professional nursing program or may give preference in awarding a grant to a program providing matching funds.

(d) The board may appoint an advisory committee to advise the board on successful strategies, in addition to the grants awarded under this section, for educating, recruiting, and retaining qualified professional nursing program faculty members who hold master's or doctoral degrees.

SECTION ____. Section 824.602(a), Government Code, is amended to read as follows:

(a) Subject to Section 825.506, the retirement system may not, under Section 824.601, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if the work occurs in not more than six months of a school year that begins after the retiree's effective date of retirement;

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree;

(5) in a position as a classroom teacher on as much as a full-time basis, if the retiree has retired under Section 824.202(a), is certified under Subchapter B, Chapter 21, Education Code, to teach the subjects assigned, is teaching in an acute shortage area as determined by the board of trustees of a school district as provided by Subsection (m), and has been separated from service with all public schools for at least 12 months;

(6) in a position as a principal, including as an assistant principal, on as much as a full-time basis, if the retiree has retired under Section 824.202(a) without reduction for retirement at an early age, is certified under Subchapter B, Chapter 21, Education Code, to serve as a principal, and has been separated from service with all public schools for at least 12 months; ~~or~~

(7) as a bus driver for a school district on as much as a full-time basis, if the retiree has retired under Section 824.202(a); or

(8) as a faculty member, during the period beginning with the 2005 fall semester and ending on the last day of the 2015 spring semester, in an undergraduate professional nursing program or graduate professional nursing program, as defined by Section 54.221, Education Code.

SECTION ____. Subchapter B, Chapter 1372, Government Code, is amended by adding Section 1372.0223 to read as follows:

Sec. 1372.0223. DEDICATION OF PORTION OF STATE CEILING FOR PROFESSIONAL NURSING PROGRAM FACULTY MEMBER HOME LOAN PROGRAM. Until August 1, out of that portion of the state ceiling that is available exclusively for reservations by issuers of qualified mortgage bonds under Section 1372.022, \$5 million shall be allotted each year and made available exclusively to the Texas State Affordable Housing Corporation for the purpose of

issuing qualified mortgage bonds in connection with the professional nursing program faculty member home loan program established under Section 2306.5622.

SECTION _____. (a) This section takes effect only if the Act of the 79th Legislature, Regular Session, 2005, relating to the nonsubstantive additions to and corrections in enacted codes (the general code update bill) is enacted and becomes law.

(b) Section 2306.553(a), Government Code, is amended to read as follows:

(a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income, for professional educators under the professional educators home loan program as provided by Section 2306.562, ~~and~~ for fire fighters and police officers under the fire fighter and police officer home loan program as provided by Section 2306.5621, and for professional nursing program faculty members under the professional nursing program faculty member home loan program as provided by Section 2306.5622 [~~2306.563~~]. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

SECTION _____. (a) This section takes effect only if the Act of the 79th Legislature, Regular Session, 2005, relating to nonsubstantive additions to and corrections in enacted codes (the general code update bill) does not become law.

(b) Section 2306.553(a), Government Code, is amended to read as follows:

(a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing primarily for individuals and families of low, very low, and extremely low income, for professional educators under the professional educators home loan program as provided by Section 2306.562, ~~and~~ for fire fighters and police officers under the fire fighter and police officer home loan program as provided by Section 2306.563, and for professional nursing program faculty members under the professional nursing program faculty member home loan program as provided by Section 2306.5622. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property.

SECTION _____. Section 2306.553(b), Government Code, is amended to read as follows:

(b) The corporation's primary public purpose is to facilitate the provision of housing by issuing qualified 501(c)(3) bonds and qualified residential rental project bonds and by making affordable loans to individuals and families of low, very low, and extremely low income, to professional educators under the professional educators home loan program, ~~and~~ to fire fighters and police officers under the fire fighter and police officer home loan program, and to professional nursing program faculty members under the professional nursing program faculty member home loan program. The corporation may make first

lien, single family purchase money mortgage loans for single family homes only to individuals and families of low, very low, and extremely low income if the individual's or family's household income is not more than the greater of 60 percent of the median income for the state, as defined by the United States Department of Housing and Urban Development, or 60 percent of the area median family income, adjusted for family size, as defined by that department. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size.

SECTION ____. Subchapter Y, Chapter 2306, Government Code, is amended by adding Section 2306.5622 to read as follows:

Sec. 2306.5622. PROFESSIONAL NURSING PROGRAM FACULTY MEMBER HOME LOAN PROGRAM. (a) In this section:

(1) "Graduate professional nursing program" and "undergraduate professional nursing program" have the meanings assigned by Section 54.221, Education Code.

(2) "Home" means a dwelling in this state in which a professional nursing program faculty member intends to reside as the faculty member's principal residence.

(3) "Mortgage lender" has the meaning assigned by Section 2306.004.

(4) "Professional nursing program faculty member" means a full-time member of the faculty of either an undergraduate or graduate professional nursing program.

(5) "Program" means the professional nursing program faculty member home loan program.

(b) The corporation shall establish a program to provide eligible professional nursing program faculty members with low-interest home mortgage loans.

(c) To be eligible for a loan under this section, at the time a person files an application for the loan, the person must:

(1) be a faculty member of an undergraduate or graduate professional nursing program;

(2) reside in this state; and

(3) have an income of not more than 115 percent of area median family income, adjusted for family size.

(d) The corporation may contract with other agencies of the state or with private entities to determine whether applicants qualify as professional nursing program faculty members under this section or otherwise to administer all or part of this section.

(e) The board of directors of the corporation may set and collect from each applicant any fees the board considers reasonable and necessary to cover the expenses of administering the program.

(f) The board of directors of the corporation shall adopt rules governing:

(1) the administration of the program;

(2) the making of loans under the program;

(3) the criteria for approving mortgage lenders;

(4) the use of insurance on the loans and the homes financed under the program, as considered appropriate by the board to provide additional security for the loans;

(5) the verification of occupancy of the home by the professional nursing program faculty member as the professional nursing program faculty member's principal residence; and

(6) the terms of any contract made with any mortgage lender for processing, originating, servicing, or administering the loans.

(g) The corporation shall ensure that a loan under this section is structured in a way that complies with any requirements associated with the source of the funds used for the loan.

(h) In addition to funds set aside for the program under Section 1372.0223, the corporation may solicit and accept funding for the program from the following sources:

(1) gifts and grants for the purposes of this section;

(2) available money in the housing trust fund established under Section 2306.201, to the extent available to the corporation;

(3) federal block grants that may be used for the purposes of this section, to the extent available to the corporation;

(4) other state or federal programs that provide money that may be used for the purposes of this section; and

(5) amounts received by the corporation in repayment of loans made under this section.

(i) This section expires September 1, 2016.

SECTION ____. (a) Except as provided by Subsection (b) of this section, Sections 54.221 and 54.222, Education Code, as added by this Act, take effect beginning with the 2006 fall semester.

(b) Not later than January 1, 2006, the Texas Higher Education Coordinating Board shall adopt rules and forms relating to tuition exemptions under Sections 54.221 and 54.222, Education Code, as added by this Act.

SECTION ____. The change in law made by this Act to Section 61.9623(a), Education Code, applies only to expenditure of grant money under that section after this Act takes effect. Expenditure of grant money under that section before this Act takes effect is governed by the law in effect at the time grant money was spent, and that law is continued in effect for that purpose.

SECTION ____. The change in law made by this Act to Section 824.602, Government Code, applies beginning with the 2005 fall semester.

SECTION ____. The Texas State Affordable Housing Corporation shall:

(1) aggressively pursue funding for the professional nursing school faculty member home loan program required by Section 2306.5622, Government Code, as added by this Act; and

(2) implement the professional nursing school faculty member home loan program required by that section not later than September 1, 2005, or as soon thereafter as practicable.

Amendment No. 2

Representative Morrison offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **SB 132**, in added Section 54.221, Education Code, as follows:

(1) In Subsection (a), strike Subdivision (a) and substitute the following:

(1) "Child" means a child 25 years of age or younger and includes an adopted child.

(2) Strike Subsections (f) and (g), substitute the following, and reletter Subsection (h) as Subsection (g):

(f) The tuition exemption provided by this section applies only to enrollment of a child at the institution at which the child's parent is employed or is under contract.

(3) In existing Subdivision (1), Subsection (h), strike "or for a refund of previously paid tuition".

Amendment No. 2 was adopted.

Amendment No. 3

On behalf of Representative Eiland, Representative Morrison offered the following amendment to Amendment No. 1:

Amend Committee Amendment No. 1 to **SB 132** by striking page 11, line 12 through page 12, line 23.

Amendment No. 3 was adopted.

Amendment No. 1, as amended, was adopted.

SB 132, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Howard recorded voting no.)

SB 851 ON SECOND READING
(Woolley - House Sponsor)

SB 851, A bill to be entitled An Act relating to a financial literacy pilot program in public schools.

(Rose now present)

Amendment No. 1

Representative Thompson offered the following amendment to **SB 851**:

Amend **SB 851** on page 2, line 11 by striking "five" and substituting "twenty-five".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Thompson offered the following amendment to **SB 851**:

Amend **SB 851** on page 2, following line 12, to add a new subsection (e) to read as follows and renumbering subsequent subsections:

"(e) school district with less than 11,000 ADA in a county with a population greater than 3,000,000 people."

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Thompson offered the following amendment to **SB 851**:

Amend **SB 851** on page 2, line 6, between ":" and "and" by inserting a new subsection (c)(9) to read as follows and renumbering subsequent subsections:

"(9) balancing a check book".

Amendment No. 3 was adopted.

SB 851, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

INTRODUCTION OF GUESTS

The speaker recognized Representative J. Keffer who introduced Tom and Lisa Perini of Perini Ranch in Buffalo Gap.

**SB 151 ON SECOND READING
(Morrison - House Sponsor)**

SB 151, A bill to be entitled An Act relating to students enrolled in junior college courses for which students may receive both high school and higher education academic credit.

Amendment No. 1

Representative Raymond offered the following amendment to **SB 151**:

Amend **SB 151** by adding the following numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly.

SECTION _____. Subchapter F, Chapter 87, Education Code, is amended by adding Section 87.505 to read as follows:

Sec. 87.505. TEXAS ACADEMY OF INTERNATIONAL STUDIES.

(a) In this section:

(1) "Academy" means the Texas Academy of International Studies.

(2) "Board" means the board of regents of The Texas A&M University

System.

(3) "University" means Texas A&M International University.

(b) The Texas Academy of International Studies is a division of Texas A&M International University and is under the management and control of the board. The academy serves the following purposes:

(1) to provide academically gifted and highly motivated junior and senior high school students with a challenging university-level curriculum that:

(A) allows students to complete high school graduation requirements, including requirements adopted under Section 28.025 for the advanced high school program, while attending for academic credit a public institution of higher education;

(B) fosters students' knowledge of real-world international issues and problems and teaches students to apply critical thinking and problem-solving skills to those issues and problems;

(C) includes the study of English, foreign languages, social studies, anthropology, and sociology;

(D) is presented through an interdisciplinary approach that introduces and develops issues, especially issues related to international concerns, throughout the curriculum; and

(E) offers students learning opportunities related to international issues through in-depth research and field-based studies;

(2) to provide students with an awareness of international career and professional development opportunities through seminars, workshops, collaboration with postsecondary students from other countries, summer academic international studies internships in foreign countries, and similar methods; and

(3) to provide students with social development activities that enrich the academic curriculum and student life, including, as determined appropriate by the academy, University Interscholastic League activities and other extracurricular activities generally offered by public high schools.

(c) The academy is a residential, coeducational institution for selected Texas high school students with an interest and the potential to excel in international studies. The academy shall admit only high school juniors and seniors, except that the academy may admit a student with exceptional abilities who is not yet a high school junior. The board shall set aside adequate space on the university campus in Laredo to operate the academy and implement the purposes of this section. The academy must operate on the same fall and spring semester basis as the university. Full-time students of the academy must enroll for both the fall and spring semesters. Faculty members of the university shall teach all academic classes at the academy. A student of the academy may attend a college course offered by the university and receive college credit for that course.

(d) Except as otherwise provided by this subsection, the university administration has the same powers and duties with respect to the academy that the administration has with respect to the university. The board shall consult with the dean of the College of Education and other members of the administration as

the board considers necessary concerning the academy's administrative design and support, personnel and student issues, and faculty development. The board shall consult with the dean of the College of Arts and Sciences and other members of the administration as the board considers necessary concerning the academy's curriculum development, program design, and general faculty issues. The board, in consultation with university administration, shall:

(1) establish an internal management system for the academy and appoint an academy principal who serves at the will of the board and reports to the university provost;

(2) provide for one or more academy counselors;

(3) establish for the academy a site-based decision-making process similar to the process required by Subchapter F, Chapter 11, that provides for the participation of academy faculty, parents of academy students, and other members of the community; and

(4) establish an admissions process for the academy.

(e) The student-teacher ratio in all regular academic classes at the academy may not exceed 30 students for each classroom teacher, except that the student-teacher ratio may exceed that limit:

(1) in a program provided for the purposes prescribed by Subsection (b)(2) or another special enrichment course or in a physical education course; or

(2) if the board determines that a class with a higher student-teacher ratio would contribute to the educational development of the students in the class.

(f) The academy shall provide the university-level curriculum in a manner that is appropriate for the social, psychological, emotional, and physical development of high school juniors and seniors. The administrative and counseling personnel of the academy shall provide continuous support to and supervision of students.

(g) For each student enrolled in the academy, the academy is entitled to allotments from the foundation school fund under Chapter 42 as if the academy were a school district without a tier one local share for purposes of Section 42.253. If in any academic year the amount of the allotments under this subsection exceeds the amount of state funds paid to the academy in the first fiscal year of the academy's operation, the commissioner of education shall set aside from the total amount of funds to which school districts are entitled under Section 42.253(c) an amount equal to the excess amount and shall distribute that amount to the academy. After deducting the amount set aside and paid to the academy by the commissioner of education under this subsection, the commissioner of education shall reduce the amount to which each district is entitled under Section 42.253(c) in the manner described by Section 42.253(h). A determination of the commissioner of education under this subsection is final and may not be appealed.

(h) The board may use any available money, enter into contracts, and accept grants, including matching grants, federal grants, and grants from a corporation or other private contributor, in establishing and operating the academy. Money spent by the academy must further the purposes of the academy prescribed by Subsection (b).

(i) The liability of the state under Chapters 101 and 104, Civil Practice and Remedies Code, is limited for the academy and employees assigned to the academy and acting on behalf of the academy to the same extent that the liability of a school district and an employee of the school district is limited under Sections 22.0511, 22.0512, and 22.052 of this code and Section 101.051, Civil Practice and Remedies Code. An employee assigned to the academy is entitled to representation by the attorney general in a civil suit based on an action or omission of the employee in the course of the employee's employment, limits on liability, and indemnity under Chapters 104 and 108, Civil Practice and Remedies Code.

(j) Except as otherwise provided by this section, the academy is not subject to the provisions of this code, or to the rules of the Texas Education Agency, regulating public schools.

(k) A student may not begin attending the academy before the 2007 fall semester. This subsection expires August 31, 2008.

SECTION _____. Subsection (a), Section 25.086, Education Code, is amended to read as follows:

(a) A child is exempt from the requirements of compulsory school attendance if the child:

(1) attends a private or parochial school that includes in its course a study of good citizenship;

(2) is eligible to participate in a school district's special education program under Section 29.003 and cannot be appropriately served by the resident district;

(3) has a physical or mental condition of a temporary and remediable nature that makes the child's attendance infeasible and holds a certificate from a qualified physician specifying the temporary condition, indicating the treatment prescribed to remedy the temporary condition, and covering the anticipated period of the child's absence from school for the purpose of receiving and recuperating from that remedial treatment;

(4) is expelled in accordance with the requirements of law in a school district that does not participate in a mandatory juvenile justice alternative education program under Section 37.011;

(5) is at least 17 years of age and:

(A) is attending a course of instruction to prepare for the high school equivalency examination, and:

(i) has the permission of the child's parent or guardian to attend the course;

(ii) is required by court order to attend the course;

(iii) has established a residence separate and apart from the child's parent, guardian, or other person having lawful control of the child; or

(iv) is homeless as defined by 42 U.S.C. Section 11302; or

(B) has received a high school diploma or high school equivalency certificate;

(6) is at least 16 years of age and is attending a course of instruction to prepare for the high school equivalency examination, if:

(A) the child is recommended to take the course of instruction by a public agency that has supervision or custody of the child under a court order; or

(B) the child is enrolled in a Job Corps training program under ~~the Job Training Partnership Act (29 U.S.C. Section 2881 [4501] et seq.)~~, ~~and its subsequent amendments~~;

(7) is enrolled in the Texas Academy of Mathematics and Science;

(8) is enrolled in the Texas Academy of Leadership in the Humanities; ~~[or]~~

(9) is enrolled in the Texas Academy of International Studies; or

(10) is specifically exempted under another law.

SECTION _____. Section 28.024, Education Code, is amended to read as follows:

Sec. 28.024. CREDIT FOR ENROLLMENT IN CERTAIN ACADEMIES. A school district shall grant to a student credit toward the academic course requirements for high school graduation, up to a maximum of two years of credit, for courses the student successfully completes at:

(1) the Texas Academy of Leadership in the Humanities under Section 96.707 ~~[Subchapter E, Chapter 108]~~; ~~[or]~~

(2) the Texas Academy of Mathematics and Science under Subchapter G [H], Chapter 105; or

(3) the Texas Academy of International Studies under Section 87.505.

(Dutton in the chair)

Amendment No. 1 was adopted.

SB 151, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 567 ON SECOND READING (J. Keffer - House Sponsor)

SB 567, A bill to be entitled An Act relating to requiring a taxing unit to include in the public notice of a hearing on the adoption of an ad valorem tax rate certain information relating to the taxing unit's budget and appraisal roll.

Amendment No. 1

Representative Y. Davis offered the following amendment to **SB 567**:

Amend **SB 567** on page 1, line 11, by striking "18-point" and substituting "24-point ~~[18-point]~~".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Riddle offered the following amendment to **SB 567**:

Amend **SB 567** as follows:

(1) In SECTION 1 of the bill, strike the prefatory language (committee printing, page 1, lines 7 and 8), and substitute the following:

SECTION 1. Subsections (b) and (c), Section 26.06, Tax Code, are amended to read as follows:

(2) In SECTION 1 of the bill, immediately following amended Subsection (b), Section 26.06, Tax Code (committee printing, page 3, between lines 23 and 24), insert the following:

(c) The notice must ~~[may]~~ be delivered by mail to each property owner in the unit and ~~[-or it may be]~~ published in a newspaper. The ~~[If the]~~ notice ~~[is]~~ published in a newspaper ~~[-it]~~ may not be in the part of the paper in which legal notices and classified advertisements appear.

(3) In SECTION 2 of the bill, strike the prefatory language (committee printing, page 3, lines 24 and 25), and substitute the following:

SECTION 2. Subsections (b) and (c), Section 44.004, Education Code, are amended to read as follows:

(b) The president shall provide for the mailing of notice of the budget and proposed tax rate meeting to each property owner in the school district and for the publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for the publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. Notice under this subsection shall be published not earlier than the 30th day or later than the 10th day before the date of the hearing. The notice mailed to property owners must contain all the information required by Subsection (c).

(4) In SECTION 2 of the bill, amended Subsection (c), Section 44.004, Education Code (committee printing, page 3, line 26), between "The" and "notice", insert "published".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Thompson offered the following amendment to **SB 567**:

Amend **SB 567** on page 4, on line 25 between ":" and "and" by adding a new Subsections (C) and (D) to read as follows and renumbering subsequent subsections:

"(C) the growth or decrease in the total value of property;

"(D) the growth or decrease in the total estimated population;

"(E) the growth or decrease in the estimated number of households living with a household income under 125% of the federal poverty guidelines;

"(F) the growth or decrease in the estimated number of children enrolled in the school district who qualify for free breakfasts and/or free lunches;

"(G) the growth or decrease in the estimated number of children with special needs;

"(H) the growth or decrease in the number of miles required to transport students to and from school;

"(I) the growth or decrease in the number and cost of new textbooks and technological hardware;"

Amendment No. 3 was adopted.

Amendment No. 4

Representative Dunnam offered the following amendment to **SB 567**:

Amend **SB 567** as follows:

(1) On page 2, line 6, between "(A)" and "the", insert "a section entitled "Comparison of Proposed Budget with Last Year's Budget, which must show"".

(2) On page 2, line 13, between "(B)" and "the", insert "a section entitled "Total Appraised Value and Total Taxable Value, which must show"".

Amendment No. 4 was adopted.

SB 567, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 28).

SB 568 ON SECOND READING (Truitt - House Sponsor)

SB 568, A bill to be entitled An Act relating to personal emergency response system providers; providing penalties.

Amendment No. 1

Representative Truitt offered the following amendment to **SB 568**:

Amend **SB 568** (House committee report) as follows:

(1) In SECTION 2 of the bill, in Subdivision (5) of added Section 781.001, Health and Safety Code (page 2, line 24), strike "security services contractor" and substitute "personal emergency response system provider".

(2) In SECTION 2 of the bill, in added Section 781.101, Health and Safety Code (page 3, line 21), strike "SECURITY SERVICES CONTRACTOR" and substitute "PERSONAL EMERGENCY RESPONSE SYSTEM PROVIDER".

(3) In SECTION 2 of the bill, in added Section 781.101, Health and Safety Code (page 3, lines 22-24), strike "as a security services contractor, a person may not act as or offer to perform the services of an alarm systems company" and substitute "issued under this chapter, a person may not act as or perform the services of a personal emergency response system provider".

(4) In SECTION 2 of the bill, in added Section 781.102, Health and Safety Code (page 3, lines 25-26), strike "ALARM SYSTEMS COMPANY. A person acts as an alarm systems company" and substitute "PERSONAL EMERGENCY RESPONSE SYSTEM PROVIDER. A person acts as a personal emergency response system provider".

(5) In SECTION 2 of the bill, strike Subdivision (5) of added Section 781.103, Health and Safety Code (page 4, lines 15-19), and renumber subsequent subdivisions of added Section 781.103, Health and Safety Code, appropriately.

(6) In SECTION 2 of the bill, in Subsection (a) of added Section 781.201, Health and Safety Code (page 11, line 26, through page 12, line 2), strike "Federal Bureau of Investigation, in the manner provided by Subchapter F, Chapter 411, Government Code, on each applicant for a license or registration" and substitute "Department of Public Safety, that relates to each applicant for registration".

(7) In SECTION 2 of the bill, in Subsection (a) of added Section 781.201, Health and Safety Code (page 12, lines 5-7), strike "Each applicant must include in the application two complete sets of fingerprints on forms prescribed by the commissioner accompanied by the fee set by the commissioner."

(8) In SECTION 2 of the bill, in the first sentence of Subsection (a) of added Section 781.258, Health and Safety Code (page 16, line 27), strike "shall" and substitute "may".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Driver offered the following amendment to **SB 568**:

Amend **SB 568** (House Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 214.194, Local Government Code, is amended to read as follows:

Sec. 214.194. ~~[FEE FOR]~~ MUNICIPAL PERMIT FEE GENERALLY. (a) If a municipality adopts an ordinance that requires a person to pay an annual fee to obtain a permit from the municipality before the person may use an alarm system in the municipality, the fee shall be used for the general administration of this subchapter, including the provision of responses generally required to implement this subchapter other than specific responses to false alarms.

(b) A municipal permit fee imposed under this section may not exceed the rate of \$50 a year for a residential location.

SECTION _____. The heading to Section 214.195, Local Government Code, is amended to read as follows:

Sec. 214.195. NONRENEWAL OR REVOCATION OF PERMIT AND TERMINATION OF MUNICIPAL RESPONSE; [AND] DISCRIMINATION PROHIBITED.

SECTION _____. Sections 214.195(a) and (d), Local Government Code, are amended to read as follows:

(a) Except as provided in Subsection (d) [~~of this section~~], a municipality may not terminate its law enforcement response to a residential permit holder because of excess false alarms if the false alarm fees are paid in full.

(d) A municipality may ~~revoke or [set standards for systems to be permitted and may]~~ refuse to renew the permit of an alarm system that has had eight or more false alarms during the preceding 12-month period [permit particular systems which in its discretion have a history of unreliability].

SECTION ____. Subchapter F, Chapter 214, Local Government Code, is amended by adding Section 214.1955 to read as follows:

Sec. 214.1955. MULTIUNIT HOUSING FACILITIES. (a) A municipality may not refuse to issue an alarm system permit for a residential location solely because the residential location is an individual residential unit located in a multiunit housing facility.

(b) In issuing an alarm system permit for an alarm installed in an individual residential unit of a multiunit housing facility, the municipality shall issue the permit to the person occupying the individual residential unit.

(c) A municipality may impose a penalty under Section 214.197 for the signaling of a false alarm on the premises of a multiunit housing facility for a facility other than an individual residential unit only if the permit holder is notified of:

(1) the date of the signaling of the false alarm;

(2) the address of the multiunit housing facility where the signaling of the false alarm occurred; and

(3) the identification of the individual facility, if applicable, located on the multiunit housing facility premises where the signaling of the false alarm occurred.

SECTION ____. Section 214.197, Local Government Code, is amended to read as follows:

Sec. 214.197. PENALTIES FOR FALSE ALARMS [PENALTY LIMITATIONS]. [(a)] A municipality may [not] impose a penalty [or fee] for the signaling of a false alarm by a burglar alarm system if [unless] at least three [five] other false alarms have occurred during the preceding 12-month period. The amount of the penalty for the signaling of a false alarm as described by Section 214.196 may not exceed:

(1) \$50, if the location has had more than three but fewer than six other false alarms in the preceding 12-month period;

(2) \$75, if the location has had more than five but fewer than eight other false alarms in the preceding 12-month period; or

(3) \$100, if the location has had eight or more other false alarms in the preceding 12-month period.

~~[(b) A penalty or fee imposed for a false alarm must be established by ordinance based on the type and level of emergency response provided. This fee may not exceed \$50 in the case of the category of burglar alarms. The penalty or fee for a false alarm may not exceed the actual expenses incurred for the response.]~~

SECTION ____. Subchapter F, Chapter 214, Local Government Code, is amended by adding Sections 214.198-214.200 to read as follows:

Sec. 214.198. VERIFICATION. A municipality may require an alarm systems monitor to attempt to contact the occupant of the alarm system location twice before the municipality responds to the alarm signal.

Sec. 214.199. EXCEPTION OF MUNICIPALITY FROM ALARM SYSTEM RESPONSE. (a) The governing body of a municipality may not adopt an ordinance providing that law enforcement personnel of the municipality will not respond to any alarm signal indicated by an alarm system in the municipality unless, before adopting the ordinance, the governing body of the municipality:

(1) makes reasonable efforts to notify permit holders of its intention to adopt the ordinance; and

(2) conducts a public hearing at which persons interested in the response of the municipality to alarm systems are given the opportunity to be heard.

(b) A municipality that adopts an ordinance under this section may not impose or collect any fine, fee, or penalty otherwise authorized by this subchapter.

Sec. 214.200. PRIORITY OR LEVEL OF RESPONSE NOT AFFECTED; LIABILITY OF MUNICIPALITY FOR NONRESPONSE. (a) Nothing in this subchapter:

(1) affects the priority or level of response provided by a municipality to a permitted location; or

(2) waives the governmental immunity provided by law for a municipality.

(b) A municipality that does not respond to an alarm signal is not liable for damages that may occur relating to the cause of the alarm signal.

SECTION ____ . Subchapter L, Chapter 1702, Occupations Code, is amended by adding Sections 1702.286, 1702.287, and 1702.288 to read as follows:

Sec. 1702.286. DUTIES OF ALARM SYSTEMS COMPANY. (a) On the installation or activation of an alarm system, an alarm systems company shall distribute to the occupant of the alarm system location information summarizing:

(1) the applicable law relating to false alarms, including the potential for penalties and revocation or suspension of a permit;

(2) how to prevent false alarms; and

(3) how to operate the alarm system.

(b) An alarm systems company shall notify the municipality in which the alarm system is located of an installation or activation of an alarm system not later than the 30th day after the date of the installation or activation. The alarm systems company shall provide to the municipality:

(1) the alarm systems company name;

(2) the alarm systems company license number;

(3) the name of the occupant of the alarm system location;

(4) the address of the alarm system location; and

(5) the date of installation or activation.

(c) Information provided to a governmental body under this section is confidential and subject to disclosure only as provided under Section 1702.284.

(d) An alarm systems company commits an offense if the company violates Subsection (a) or (b). An offense under this subsection is a Class C misdemeanor.

(e) The duties imposed by this section on an alarm systems company do not apply to the installation or activation of a personal emergency response system, as defined under Section 1702.331.

Sec. 1702.287. DETECTION DEVICE CONTROL PANELS; MINIMUM STANDARDS. An alarm systems company may not install any alarm system on or after January 1, 2007, that includes a detection device control panel unless the control panel meets or exceeds the standards of the American National Standards Institute for false alarm reduction.

Sec. 1702.288. NOTICE OF CERTAIN INFORMATION TO RECIPIENT OF ALARM SYSTEM SERVICES. (a) The board shall adopt rules in accordance with this section that require a license holder acting as an alarm systems company under this chapter to inform each of the license holder's clients that the client is entitled to receive a written contract for alarm system services that contains the client's fee arrangement and other relevant information about services to be rendered.

(b) The rules shall require that a written contract for alarm system services shall be furnished to a client in accordance with Subsection (a) not later than the seventh day after the date the client requests the written contract.

(c) The rules shall require that the written contract for services shall be dated and signed by the owner or manager of an alarm systems company or a person expressly authorized by the owner or manager to sign written contracts on behalf of the company.

(d) The rules shall require that, not later than the seventh day after the date of entering into a contract for services regulated by the board with another alarm systems company or alarm systems monitor, an alarm systems company shall:

(1) notify the recipient of those services of the name, address, and telephone number, and individual to contact at the company that purchased the contract;

(2) notify the recipient of services at the time the contract is negotiated that another licensed company may provide any of the services requested by subcontracting or outsourcing those services; and

(3) if any of the services are subcontracted or outsourced to a licensed third party, notify the recipient of services, by mail, of the name, address, phone number, and license number of the company providing those services.

(e) The rules shall require that notice provided to a recipient of services under Subsection (d) shall:

(1) be mailed to the recipient in a written form that emphasizes the required information; and

(2) include stickers or other materials to be affixed to an alarm system indicating the alarm systems company's or alarm systems monitor's new telephone number.

SECTION ____ . Section 1702.286, Occupations Code, as added by this Act, applies only to an alarm system installed or activated on or after January 1, 2006.

Amendment No. 2 - Point of Order

Representative Pickett raised a point of order against further consideration of Amendment No. 2 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The chair overruled the point of order.

Amendment No. 2 was adopted.

SB 568, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

SB 568 - STATEMENT OF LEGISLATIVE INTENT

It is my intent that with the passage of **SB 568** alarm companies currently regulated by DPS will continue to be regulated by DPS, even if they include Personal Emergency Response Services in their menu of available services and would not need to seek any additional license for the provision of Personal Emergency Response Services.

Those companies currently regulated by the DSHS for Personal Emergency Response Services that would expand their menu of services to include those items currently covered by DPS will need to apply to DPS for the appropriate licensure.

Truitt

CSSB 330 ON SECOND READING (McReynolds - House Sponsor)

CSSB 330, A bill to be entitled An Act relating to the creation of a stroke committee and the development of a statewide stroke emergency transport plan.

Amendment No. 1

Representative McReynolds offered the following amendment to **CSSB 330**:

Amend **CSSB 330** (House committee printing) as follows:

(1) In SECTION 3 of the bill, in added Section 773.201, Health and Safety Code (page 1, lines 20-21) strike "to construct an emergency treatment system in" and substitute "that a statewide stroke emergency transport plan be developed for".

(2) In SECTION 3 of the bill, in added Section 773.202(3)(B), Health and Safety Code, (page 2, line 10) strike "trauma system" and substitute "trauma care system, as defined by Section 773.003".

(3) In SECTION 3 of the bill, in added Section 773.203(b)(1), Health and Safety Code (page 2, line 21) between "for accreditation" and "from" insert "in Vascular Neurology".

(4) In SECTION 3 of the bill, in added Section 773.204(b)(3), Health and Safety Code (page 3, lines 22-23) strike "designated facility when rapid transport is appropriate" and substitute "stroke facility when rapid transport is appropriate and it is safe to bypass another health care facility".

(5) In SECTION 4 of the bill (page 4, lines 8-11) strike Subsection (b) of that SECTION and reletter the subsequent subsection.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Thompson offered the following amendment to **CSSB 330**:

Amend **CSSB 330** as follows:

On page 2, following line 13, add Subsection (D) as follows and renumber subsequent subsections:

"(E) has a stroke team composed of emergency medicine, neurology, neurosurgery, radiology, nursing, laboratory, pharmacy and respiratory therapy. The team must be experienced in the administration of approved acute stroke treatment including thrombolysis."

Amendment No. 2 was withdrawn.

CSSB 330, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

CSSB 809 ON SECOND READING

(Taylor - House Sponsor)

CSSB 809, A bill to be entitled An Act relating to the Texas Health Insurance Risk Pool.

Amendment No. 1

Representative Seaman offered the following amendment to **CSSB 809**:

Amend **CSSB 809**, house committee printing, by inserting the following new SECTION, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter D, Chapter 1506, Insurance Code, is amended by adding Section 1506.160 to read as follows:

Sec. 1506.160. REIMBURSEMENT RATES. The health benefit coverage provided by the pool must provide payment or reimbursement for covered benefits to physicians and other health care providers at the lesser of:

(1) the rate specified in the contract between the physician and other health care provider and the pool or a preferred provider organization or health maintenance organization established by or contracting with the pool; or

(2) the applicable Medicare allowable rate.

Amendment No. 1 was withdrawn.

Amendment No. 2

Representative Seaman offered the following amendment to **CSSB 809**:

Amend **CSSB 809** (house committee printing) as follows:

(1) In SECTION 5 of the bill, in added Section 1506.2522, Insurance Code, strike the phrases "or retired employee" and "or retired employees" each place the phrases appear (page 4, line 26, and page 5, lines 4, 7-8, 13, 15, and 19).

(2) In SECTION 5 of the bill, in added Section 1506.2522, Insurance Code, following Subsection (d) (page 5, between lines 23 and 24), insert:

(e) In determining the number of enrolled individuals to report under this section, the health benefit plan issuer shall exclude individuals who are retired employees who are 65 years of age or older.

Amendment No. 2 was adopted.

(Speaker in the chair)

Amendment No. 3

Representative Taylor offered the following amendment to **CSSB 809**:

Amend **CSSB 809** (House committee printing) as follows:

(1) In SECTION 5 of the bill, in added Section 1506.2522, Insurance Code (page 5, between lines 23 and 24), insert the following new subsection:

(e) This section expires September 1, 2007.

(2) In SECTION 6 of the bill, strike amended Subsection (b), Section 1506.253, Insurance Code (page 6, lines 6-24), and substitute the following:

(b) The amount of a health benefit plan issuer's assessment is computed by multiplying the total amount required to be assessed against all health benefit plan issuers by a number computed by dividing:

(1) the gross premiums collected by the issuer for health benefit plans in this state during the preceding calendar year; by

(2) the gross premiums collected by all issuers for health benefit plans in this state during the preceding calendar year.

(b-1) Notwithstanding Subsection (b), to compute the amount of a health benefit plan issuer's assessment, if any, the board shall:

(1) divide the total amount to be assessed by the total number of enrolled individuals reported by all health benefit plan issuers under Section 1506.2522 as of the preceding December 31 to determine the per capita amount; and

(2) multiply the number of enrolled individuals reported by the health benefit plan issuer under Section 1506.2522 as of the preceding December 31 by the per capita amount to determine the amount assessed to that health benefit plan issuer.

(b-2) Subsection (b-1) and this subsection expire September 1, 2007.

(3) Insert the following new SECTION, numbered appropriately:

SECTION _____. (a) The legislature shall establish a joint interim committee to study the deficit resulting from the net losses of the Texas Health Insurance Risk Pool and to recommend a method or formula for recouping any deficit that apportions the cost of those losses among the largest possible number of users of the health care system.

(b) Not later than September 1, 2006, the committee shall report its findings and recommendations to the governor, lieutenant governor, and speaker of the house of representatives.

(c) The lieutenant governor and speaker shall determine the composition of the committee.

(d) This section expires September 1, 2007.

(4) Renumber SECTIONS of the bill accordingly.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Hochberg offered the following amendment to **CSSB 809**:

Amend **CSSB 809** as follows:

(1) on page 3, line 27, strike "or"

(2) between page 3, line 27 and page 4, line 28 insert the following:

(E) evidence that the individual is covered by substantially similar individual coverage that excludes one or more conditions by rider; or

(3) Insert the following appropriately numbered section and renumber the remaining sections accordingly:

SECTION _____. Section 1506.153, Insurance Code, is amended to read as follows:

Sec. 1506.153. INELIGIBILITY FOR COVERAGE. Notwithstanding Sections 1506.152(a)-(d), an individual is not eligible for coverage from the pool if:

(1) on the date pool coverage is to take effect, the individual has health benefit plan coverage from a health benefit plan issuer or health benefit arrangement in effect, except as provided by Section 1506.152(a)(3)(E);

(2) at the time the individual applies to the pool, the individual is eligible for other health care benefits, including benefits from the continuation of coverage under Title X, Consolidated Omnibus Budget Reconciliation Act of 1985 (29 U.S.C. Section 1161 et seq.), as amended (COBRA), other than:

(A) coverage, including COBRA or other continuation coverage or conversion coverage, maintained for any preexisting condition waiting period under a pool policy;

(B) employer group coverage conditioned by a limitation of the kind described by Section 1506.152(a)(3)(A) or (C); or

(C) individual coverage conditioned by a limitation described by Section 1506.152(a)(3)(C), ~~(D)~~, or (E);

(3) within 12 months before the date the individual applies to the pool, the individual terminated coverage in the pool, unless the individual demonstrates a good faith reason for the termination;

(4) the individual is confined in a county jail or imprisoned in a state or federal prison;

(5) any of the individual's premiums are paid for or reimbursed under a government-sponsored program or by a government agency or health care provider, other than as an otherwise qualifying full-time employee of a government agency or health care provider or as a dependent of such an employee;

(6) the individual's prior coverage with the pool was terminated:

(A) during the 12-month period preceding the date of application for nonpayment of premiums; or

(B) for fraud; or

(7) the individual is eligible for health benefit plan coverage provided in connection with a policy, plan, or program paid for or sponsored by an employer, even though the employer coverage is declined.

SECTION ____ . Section 1506.156, Insurance Code, is amended to read as follows:

Sec. 1506.156. **BENEFIT REDUCTION; CERTAIN COVERAGES SECONDARY.** (a) The pool shall reduce benefits otherwise payable under pool coverage by:

(1) the total amount paid or payable through any other health benefit plan or health benefit arrangement; and

(2) the total amount of hospital or medical expense benefits paid or payable under:

(A) workers' compensation coverage;

(B) automobile insurance, regardless of whether provided on the basis of fault or no fault; or

(C) a state or federal law or program.

(b) Pool coverage provided under Section 1506.152(a)(3)(E) is secondary to the individual coverage described by that paragraph for any period during which that individual coverage is in effect.

Amendment No. 4 was adopted.

CSSB 809, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero recorded voting no.)

SB 282 ON SECOND READING

(Villarreal - House Sponsor)

SB 282, A bill to be entitled An Act relating to disclosure and use of sales price information for ad valorem tax purposes.

Representative Villarreal moved to postpone consideration of **SB 282** until June 1.

The motion prevailed.

CSSB 1227 ON SECOND READING
(Morrison - House Sponsor)

CSSB 1227, A bill to be entitled An Act relating to enrollment in public and private postsecondary educational institutions, to payment of the costs of attending those educational institutions, and to financial aid and other measures to assist students to pay those costs.

Amendment No. 1

Representative Morrison offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) as follows:

(1) In SECTION 3 of the bill, in amended Subdivision (3), Subsection (a), Section 52.32, Education Code (page 3, line 11), between "education" and the semicolon, insert "or alternative educator certification program".

(2) In SECTION 3 of the bill, strike amended Subdivision (4), Subsection (a), Section 52.32, Education Code (page 3, lines 12-13), and substitute the following:

(4) has submitted to the board at least two references, including the names of the persons giving those references and appropriate contact information for those persons ~~[been recommended by reputable persons in his home community]~~; and

(3) Add the following appropriately numbered SECTIONS to the bill and renumber existing SECTIONS of the bill accordingly:

SECTION _____. Section 52.33, Education Code, is amended to read as follows:

Sec. 52.33. AMOUNT OF LOAN. The amount of the loan to any qualified applicant shall be limited to the difference between the financial resources available to the applicant [him], including but not limited to the applicant's [his] income from parents and other sources, scholarships, gifts, grants, other financial aid, and the amount the applicant [he] can reasonably be expected to earn, and the amount necessary to pay the applicant's [his] reasonable expenses as a student at the participating institution of higher education where the applicant [he] has been accepted for enrollment, under the rules and regulations adopted by the board. The total loan to any individual student may never be more than the amount the student [he] can reasonably be expected to repay in the [a] maximum loan period provided by board rule ~~[of 10 years after he is last enrolled in a participating institution]~~, except as otherwise provided for in this chapter.

SECTION _____. Section 52.35, Education Code, is amended to read as follows:

Sec. 52.35. TERM OF LOANS. The term of all authorized loans must be for the shortest possible period consistent with general practice by issuers of student loans, as determined by the board. ~~[However, no loan may be made to any student for a period longer than 10 years from the date he is last enrolled in a participating institution.]~~

Amendment No. 1 was adopted.

Amendment No. 2

Representative J. Jones offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House Committee Printing) in SECTION 43 of the bill, at the end of added Section 61.2251, Education Code (page 39, between lines 18 and 19), by inserting the following:

(f) Subsection (c)(3) does not apply to a student who:

(1) is currently enrolled in an approved institution at which 40 percent or more of the total number of the institution's students are members of ethnic or racial groups that are underrepresented among undergraduate students at public or private institutions of higher education in this state; and

(2) has not yet completed 48 semester credit hours at a public or private institution of higher education in this state.

(McCall in the chair)

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative McClendon offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) by adding the following appropriately numbered SECTIONS of the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION __. (a) Section 51.801, Education Code, is amended to read as follows:

Sec. 51.801. DEFINITIONS. In this subchapter, "general academic teaching institution," "governing board," "medical and dental unit," "public junior college," "public technical institute," and "university system" have the meanings assigned by Section 61.003.

(b) Subchapter U, Chapter 51, Education Code, is amended by adding Section 51.8065 to read as follows:

Sec. 51.8065. AUTOMATIC ADMISSION: UNDERGRADUATE TRANSFER STUDENTS HOLDING ASSOCIATE DEGREES OR CERTIFICATES. (a) In this section, "public upper-level institution of higher education" means an institution of higher education that offers only junior-level and senior-level courses or only junior-level, senior-level, and graduate-level courses.

(b) Except as provided by Subsection (g), each general academic teaching institution shall admit an applicant for admission to the institution as an undergraduate transfer student if in the year preceding the academic year for which the applicant is applying for admission under this section the applicant:

(1) received a degree or certificate from a public junior college or public technical institute in a program requiring at least 42 semester credit hours in the core curriculum, as defined by Section 61.821; and

(2) completed the degree or certificate program with a cumulative grade point average of at least a 3.0 on a four-point scale or the equivalent.

(c) To qualify for admission under this section, an applicant must submit an application before the expiration of any application filing deadline established by the institution.

(d) After admitting an applicant under this section, the institution may review the applicant's record and any other factor the institution considers appropriate to determine whether the applicant may require additional preparation for college-level work or would benefit from inclusion in a retention program. The institution may require a student so identified to enroll during the summer immediately after the student is admitted under this section to participate in appropriate enrichment courses and orientation programs. This section does not prohibit a student who is not determined to need additional preparation for college-level work from enrolling, if the student chooses, during the summer immediately after the student is admitted under this section.

(e) Admission to a specific general academic teaching institution is contingent on the availability of space within the institution for the admission of additional students.

(f) Admissions to a particular program or school within a general academic teaching institution are based solely on the requirements of the institution.

(g) This section does not apply to admission to:

(1) a public upper-level institution of higher education; or

(2) any other general academic teaching institution if, with respect to the academic year for which an undergraduate transfer student has applied for admission, the institution has filled through automatic admission as required by the other provisions of this subchapter at least 50 percent of the spaces available for entering undergraduate students at the institution.

(c) The Texas Higher Education Coordinating Board and the governing board of each general academic teaching institution shall adopt rules or policies relating to the admission of students under Section 51.8065, Education Code, as added by this section, not later than February 1, 2006.

(d) Section 51.8065, Education Code, as added by this section, applies beginning with admissions for the 2006 fall semester.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Harper-Brown offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES accordingly:

ARTICLE __. TREATMENT OF CERTAIN FEES RECEIVED BY
INSTITUTIONS OF HIGHER EDUCATION

SECTION __.01. Section 51.009(c), Education Code, is amended to read as follows:

(c) Each of the following shall be accounted for as educational and general funds:

(1) net tuition, special course fees charged under Sections 54.051(e) and (l), Education Code, lab fees, student teaching fees, ~~[hospital and clinic fees,]~~ organized activity fees, proceeds from the sale of educational and general equipment, and indirect cost recovery fees; and

(2) hospital and clinic fees received by a state-owned clinical care facility that is operated using general revenue fund appropriations for patient care.

SECTION __.02. Section 51.009(c), Education Code, as amended by this article, applies to fees collected on or after the effective date of this Act. A fee collected before that date is governed by the law in effect when the fee is collected, and that law is continued in effect for that purpose.

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Turner offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) as follows:

(1) In SECTION 26 of the bill, in Subsection (e)(2)(B), Section 56.305, Education Code (page 20, line 24), strike "2.5" and substitute "2.0 [~~2.5~~]".

(2) In SECTION 26 of the bill, in added Subsection (e-1)(2)(B), Section 56.305, Education Code (page 21, line 10), strike "2.5" and substitute "2.0".

(3) In SECTION 34 of the bill, in Subsection (d)(2)(B), Section 56.405, Education Code (page 30, line 15), strike "2.5" and substitute "2.0 [~~2.5~~]".

(4) In SECTION 43 of the bill, in added Subsection (c)(3), Section 61.2251, Education Code (page 38, line 24), strike "2.5" and substitute "2.0".

Representative Morrison moved to table Amendment No. 5.

A record vote was requested.

The motion to table was lost by (Record 809): 20 Yeas, 104 Nays, 2 Present, not voting.

Yeas — Bohac; Crabb; Crownover; Dawson; Goolsby; Grusendorf; Hamric; Harper-Brown; Hope; Jackson; Keel; Keffer, B.; King, P.; Kolkhorst; Laubenberg; Miller; Morrison; Paxton; Riddle; Zedler.

Nays — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Berman; Blake; Bonnen; Branch; Brown, B.; Burnam; Callegari; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Davis, J.; Davis, Y.; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Goodman; Griggs; Guillen; Haggerty; Hamilton; Hardcastle; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keffer, J.; King, T.; Kuempel; Laney; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McReynolds; Menendez; Merritt; Moreno, P.; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Otto; Peña; Phillips; Pickett; Puente; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Solis; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Veasey; Villarreal; Vo; West; Wong; Woolley.

Present, not voting — Mr. Speaker; McCall(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Solomons.

Absent — Anderson; Baxter; Brown, F.; Campbell; Delisi; Driver; Flores; Gattis; Hartnett; Krusee; McClendon; Oliveira; Pitts; Quintanilla; Reyna; Seaman; Smithee; Turner; Van Arsdale.

STATEMENTS OF VOTE

When Record No. 809 was taken, I was in the house but away from my desk. I would have voted no.

Anderson

I was shown voting yes on Record No. 809. I intended to vote no.

Kolkhorst

When Record No. 809 was taken, I was in the house but away from my desk. I would have voted no.

McClendon

I was shown voting yes on Record No. 809. I intended to vote no.

Miller

Amendment No. 5 was adopted.

Amendment No. 6

Representative Rose offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) as follows:

(1) In Section 43 of the bill, in added Subdivision (2), Subsection (b), Section 61.2251, Education Code (page 37, line 26), between "(2)" and "be enrolled", insert "if the person is enrolled in an undergraduate degree or certificate program.".

(2) In Section 43 of the bill, strike added Subdivisions (1)-(3), Subsection (c), Section 61.2251, Education Code (page 38, lines 15-26), and substitute the following:

(1) meets the requirements of Subsection (b); and

(2) if the person is enrolled in an undergraduate degree or certificate program:

(A) completed at least 24 semester credit hours in the person's most recent academic year; and

(B) has earned an overall grade point average of at least 2.5 on a four-point scale or the equivalent on coursework previously attempted at public or private institutions of higher education.

Amendment No. 6 was adopted.

Amendment No. 7

Representative Rose offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** by adding the following SECTIONS to the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 51.351(1), Education Code, is amended to read as follows:

(1) "General academic teaching institution," "governing board," "institution of higher education," "medical and dental unit," "public junior college," and "university system" have the meanings assigned by Section 61.003 ~~[of this code]~~.

SECTION _____. Subchapter G, Chapter 51, Education Code, is amended by adding Sections 51.355 and 51.356 to read as follows:

Sec. 51.355. NONVOTING STUDENT REGENT; UNIVERSITY SYSTEM BOARD OF REGENTS. (a) In this section, "student government" means the representative student organization directly elected by the student body of a general academic teaching institution or medical and dental unit.

(b) The chancellor of each university system shall develop a uniform application form to be used by each general academic teaching institution and medical and dental unit in the university system to solicit applicants for the position of student regent.

(c) Except as provided by Subsection (f), not later than September 1 of each year, the student government of each general academic teaching institution and medical and dental unit in a university system shall solicit applicants for the position of student regent. Not later than November 1, from among the applications received by the student government, the student government shall select five applicants as the student government's recommendations for the position of student regent and send the applications of those applicants, with the name of each applicant and the name of the institution or unit in which the applicant is enrolled removed, to the chancellor of the university system. From among those applicants, the chancellor shall select two or more applicants as the university system's recommendations for the position of student regent and shall send the applications of those applicants to the governor not later than December 1. The governor may request to review all applications for the position of student regent received by the student governments and may request to review information required to be removed from an application by a student government under this subsection. On February 1, or as soon thereafter as practicable, the governor shall appoint one of the applicants to serve as the student regent for the system for a one-year term expiring on the next February 1. The governor is not required to appoint an applicant recommended by the chancellor.

(d) A student regent must be enrolled as an undergraduate or graduate student in a general academic teaching institution or medical and dental unit in the university system at the time of appointment and throughout the student regent's term. For purposes of this subsection, a person is considered to be enrolled in an institution or unit for a summer term if the person was enrolled in the institution or unit for the preceding semester and:

(1) is registered or preregistered at the institution or unit for the following fall semester;

(2) if the person has not completed the person's degree program, is eligible to continue the degree program at the institution or unit in the following fall semester; or

(3) if the person completed a degree program in the preceding semester, is admitted to another degree program at the institution or unit for the following fall semester.

(e) A student regent is not a member of the board of regents of the system for which the student regent is appointed. A student regent has the same powers and duties as the members of the board of regents of the system, including the right to attend and participate in meetings of the board of regents, except that the student regent:

(1) may not vote on any matter before the board or make or second any motion before the board; and

(2) is not counted in determining whether a quorum exists for a meeting of the board or in determining the outcome of any vote of the board.

(f) The student government of the general academic teaching institution or medical and dental unit at which a current student regent was enrolled at the time of the student regent's appointment may not solicit applicants for the position of student regent for the next regular term of the position.

(g) A vacancy in the position of student regent for a university system shall be filled for the unexpired term by appointment by the governor in consultation with the chancellor of the system.

Sec. 51.356. NONVOTING STUDENT REGENT; INSTITUTION BOARD OF REGENTS. (a) This section applies only to a general academic teaching institution that is not a part of a university system.

(b) In this section, "student government" means the representative student organization directly elected by the student body of a general academic teaching institution.

(c) The president of a general academic teaching institution shall develop a uniform application form to be used to solicit applicants for the position of student regent.

(d) Not later than September 1 of each year, the student government of the general academic teaching institution shall solicit applicants for the position of student regent. Not later than November 1, from among the applications received by the student government, the student government shall select five applicants as the student government's recommendations for the position of student regent and send the applications of those applicants, with the name of each applicant removed, to the president of the institution. From among those applicants, the president shall select two or more applicants as the institution's recommendations for the position of student regent and shall send the applications of those applicants to the governor not later than December 1. The governor may request to review all applications for the position of student regent received by the student government and may request to review information required to be removed from an application by the student government under this subsection. On February 1, or as soon thereafter as practicable, the governor shall appoint

one of the applicants to serve as the student regent for the institution for a one-year term expiring on the next February 1. The governor is not required to appoint an applicant recommended by the president.

(e) A student regent must be enrolled as an undergraduate or graduate student in the general academic teaching institution at the time of appointment and throughout the student regent's term. For purposes of this subsection, a person is considered to be enrolled in an institution for a summer term if the person was enrolled in the institution for the preceding semester and:

(1) is registered or preregistered at the institution for the following fall semester;

(2) if the person has not completed the person's degree program, is eligible to continue the degree program at the institution in the following fall semester; or

(3) if the person completed a degree program in the preceding semester, is admitted to another degree program at the institution for the following fall semester.

(f) A student regent is not a member of the board of regents of the institution for which the student regent is appointed. A student regent has the same powers and duties as the members of the board of regents of the institution, including the right to attend and participate in meetings of the board of regents, except that the student regent:

(1) may not vote on any matter before the board or make or second any motion before the board; and

(2) is not counted in determining whether a quorum exists for a meeting of the board or in determining the outcome of any vote of the board.

(g) A vacancy in the position of student regent for an institution shall be filled for the unexpired term by appointment by the governor in consultation with the president of the institution.

SECTION _____. The initial term of a student regent appointed for a state university system under Section 51.355, Education Code, as added by this Act, or for a state university under Section 51.356, Education Code, as added by this Act, expires February 1, 2007. The appropriate student governments, the chancellor of each state university system, the president of each state university that is not a part of a university system, and the governor shall take the actions required by Sections 51.355 and 51.356, Education Code, as added by this Act, as soon as practicable after this Act takes effect to select a student regent for each state university or state university system for that initial term.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Campbell offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** by adding the following new SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3012 to read as follows:

Sec. 56.3012. PILOT PROJECT TO PROVIDE INCENTIVES FOR ATTENDANCE AT UNDERUTILIZED PUBLIC INSTITUTIONS. (a) The coordinating board shall establish a TEXAS grant pilot project as provided by this section to encourage students to attend eligible public institutions of higher education that offer extensive baccalaureate degree program options and that have sufficient facilities, administrative infrastructure, and faculty to serve additional students in order to reduce the need for this state to construct additional facilities or hire additional faculty at other institutions of higher education.

(b) From money available under Section 56.310 for purposes of this subchapter and money available under Section 56.464 for purposes of Subchapter Q, the coordinating board shall set aside sufficient money to provide TEXAS grants for the 2005-2006 and 2006-2007 academic years to students who are initially eligible for a grant under Section 56.304 or 56.3041 in either of those years as follows:

(1) for not more than 400 additional students in excess of the total of fall 2004 TEXAS Grant awards at Angelo State University; and

(2) for not more than 200 additional students in excess of the total of fall 2004 TEXAS Grant awards at Sul Ross State University.

(c) To the extent money set aside under Subsection (b) is available for the purpose, a person awarded a grant as provided by Subsection (b) who continues to be eligible for a grant under Section 56.305 may receive a grant from the money set aside. If money set aside under Subsection (b) is not available to pay for a grant for a person awarded a grant as provided by Subsection (b) who continues to be eligible for a grant under Section 56.305, the person may receive a grant from the money available under Section 56.310 on the same basis as other TEXAS grant applicants.

(d) The coordinating board shall reallocate for grants under this subchapter or for loans under Subchapter Q, as applicable, any money set aside for purposes of the TEXAS grant pilot project that is not used in the academic year for which the money is set aside. Money reallocated under this subsection may be used at any eligible institution under this subchapter or Subchapter Q.

(e) Except as otherwise specifically provided by this section, this subchapter applies to a TEXAS grant awarded under this section.

(f) The coordinating board shall develop criteria for evaluating the TEXAS grant pilot project and, based on that evaluation, not later than January 1, 2007, shall report to the 80th Legislature the coordinating board's recommendations concerning whether to continue, expand to other underutilized eligible public institutions of higher education, or discontinue the TEXAS grant pilot project.

SECTION __. The Texas Higher Education Coordinating Board shall adopt rules to administer Section 56.3012, Education Code, as added by this Act, as soon as practicable after the date this Act takes effect. For that purpose, the board may adopt the initial rules in the manner provided by law for adoption of emergency rules.

Amendment No. 8 was adopted.

Amendment No. 9

Representative Harper-Brown offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES accordingly:

ARTICLE __. TREATMENT OF CERTAIN FEES RECEIVED BY
INSTITUTIONS OF HIGHER EDUCATION

SECTION __.01. Section 51.009(c), Education Code, is amended to read as follows:

(c) Each of the following shall be accounted for as educational and general funds:

(1) net tuition, special course fees charged under Sections 54.051(e) and (l), Education Code, lab fees, student teaching fees, ~~hospital and clinic fees,~~ organized activity fees, proceeds from the sale of educational and general equipment, and indirect cost recovery fees; and

(2) hospital and clinic fees received by a state-owned clinical care facility that is operated using general revenue fund appropriations for patient care.

SECTION __.02. Section 51.009(c), Education Code, as amended by this article, applies to fees collected on or after the effective date of this Act. A fee collected before that date is governed by the law in effect when the fee is collected, and that law is continued in effect for that purpose.

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Uresti offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** by adding the following appropriately numbered Sections to the bill and renumbering the remaining Sections of the bill appropriately:

SECTION __. Section 54.203, Education Code, is amended by amending Subsections (a), (e), and (g) and adding Subsections (h) and (i) to read as follows:

(a) The governing board of each institution of higher education shall exempt the following persons from the payment of all dues, fees, and charges, including fees for correspondence courses but excluding property deposit fees, student services fees, and any fees or charges for lodging, board, or clothing, provided the persons seeking the exemptions were citizens of Texas at the time they entered the services indicated and have resided in Texas for at least the period of 12 months before the date of registration:

(1) all nurses and honorably discharged members of the armed forces of the United States who served during the Spanish-American War or during World War I;

(2) all nurses, members of the Women's Army Auxiliary Corps, members of the Women's Auxiliary Volunteer Emergency Service, and all honorably discharged members of the armed forces of the United States who

served during World War II except those who were discharged from service because they were over the age of 38 or because of a personal request on the part of the person that the person [~~he~~] be discharged from service;

(3) all honorably discharged men and women of the armed forces of the United States who served during the national emergency which began on June 27, 1950, and which is referred to as the Korean War; and

(4) all persons who were honorably discharged from the armed forces of the United States after serving on active military duty, excluding training, for more than 180 days and who served a portion of their active duty during:

(A) the Cold War which began on the date of the termination of the national emergency cited in Subdivision (3) and ended on December 26, 1991 [~~of this subsection~~];

(B) the Vietnam era which began on December 21, 1961, and ended on May 7, 1975;

(C) the Grenada and Lebanon era which began on August 24, 1982, and ended on July 31, 1984;

(D) the Panama era which began on December 20, 1989, and ended on January 21, 1990;

(E) the Persian Gulf War which began on August 2, 1990, and ends on the date thereafter prescribed by Presidential proclamation or September 1, 1997, whichever occurs first; or

(F) any future national emergency declared in accordance with federal law.

(e) An [~~The~~] exemption from fees provided for in Subsection (a) or (h) [~~of this section~~] does not apply to a person if at the time of the person's [~~his~~] registration the person [~~he~~] is eligible for educational benefits under federal legislation in effect at the time of [~~his~~] registration if the value of those benefits is equal to or exceeds the value of the exemption, except that the person must first utilize the federal benefit for which the person [~~he~~] is eligible and the combined amount of the federal benefit plus the amount of this waiver shall not exceed the maximum value of the waiver. A person is covered by the exemptions if the person's [~~his~~] right to benefits under federal legislation is extinguished at the time of [~~his~~] registration, except that a person is not eligible for an exemption from fees under this section if the person's right to benefits under federal legislation is extinguished because the person is in default of repayment of a loan made to the person under a federal program to provide or guarantee loans for educational purposes. A person is not eligible for the exemption if the person is in default on a loan made or guaranteed for educational purposes by the State of Texas.

(g) The governing board of a junior college district may provide that the exemptions provided by Subsections (a), [~~and~~] (b), and (h) do not apply to a course fee or training fee charged a student by the junior college district to cover the flight time costs associated with a course in aircraft flight training, to the extent those costs are incurred by a student:

(1) who does not have a private pilot rating; or

(2) who has a private pilot rating but is not actively seeking to fulfill the requirements of the Federal Aviation Administration for an additional certification or rating.

(h) The Texas Higher Education Coordinating Board by rule shall prescribe procedures to allow a person who becomes eligible for an exemption provided by Subsection (a) before September 1, 2015, to waive the person's right to any unused portion of the maximum number of cumulative credit hours for which the person could receive the exemption and assign the exemption for the unused portion of those credit hours to one of the person's children. The procedures shall provide:

(1) the manner in which a person may waive the exemption and designate a child to receive the exemption;

(2) a procedure permitting the person to designate a different child to receive the exemption if the child previously designated to receive the exemption has never received an exemption under this section; and

(3) a method of documentation to enable institutions of higher education to determine the eligibility of the designated person to receive the exemption.

(i) To be eligible to receive an exemption under Subsection (h), a person must:

(1) be an undergraduate student who is classified as a resident under Subchapter B when the person enrolls in an institution of higher education;

(2) make satisfactory academic progress toward a degree or certificate as determined by the institution at which the person is enrolled, except that the institution may not require the person to enroll in a minimum course load;

(3) in each academic year in which the person receives an exemption for any of the credit hours assigned to the person under Subsection (h), perform a number of hours of community service equal to one-third of the total number of credit hours assigned to the person under Subsection (h) for each of the following:

(A) a veterans organization; and

(B) the institution in which the person is enrolled; and

(4) be less than 28 years old, except that the coordinating board by rule shall prescribe procedures by which a person who suffered from a severe illness or other debilitating condition that affected the person's ability to use the exemption before reaching that age may be granted additional time to use the exemption corresponding to the time the person was unable to use the exemption because of the illness or condition.

SECTION __. (a) The change in law made by this Act to Section 54.203(a)(4), Education Code, applies only to a person who is honorably discharged from the armed forces of the United States on or after the effective date of this Act.

(b) Section 54.203, Education Code, as amended by this Act, applies beginning with tuition and other fees charged for the 2005 fall semester. Tuition and other fees charged for an academic period before the 2005 fall semester are covered by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) The Texas Higher Education Coordinating Board shall prescribe the procedures required by Sections 54.203(h) and (i), Education Code, as added by this Act, as soon as practicable after the effective date of this Act. For that purpose, the coordinating board may adopt the initial rules prescribing those procedures in the manner provided by law for emergency rules.

Amendment No. 10 was adopted.

Amendment No. 11

On behalf of Representative McCall, Representative F. Brown offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** by adding the following appropriately numbered section:

SECTION ____. Notwithstanding other law, a provision of this Act that requires a tuition or fee exemption that did not exist on January 1, 2005, is effective only to the extent that funds are expressly appropriated for that purpose.

Amendment No. 11 was adopted.

Amendment No. 12

Representative Harper-Brown offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill:

SECTION ____. Section 56.301, Education Code, is amended to read as follows:

Sec. 56.301. DEFINITIONS. In this subchapter:

(1) "Coordinating board" means the Texas Higher Education Coordinating Board.

(2) "Eligible institution" means[+] ~~(A)~~ an institution of higher education that offers one or more undergraduate degree or certification programs[+; or

~~(B) a private or independent institution of higher education].~~

(3) "Public junior college" [~~"Private or independent institution of higher education," "public junior college,"~~] and "public technical institute" have the meanings assigned by Section 61.003.

SECTION ____. Subsection (b), Section 56.302, Education Code, is amended to read as follows:

(b) The purpose of this subchapter is to provide a grant of money to enable eligible students to attend public [~~and private~~] institutions of higher education in this state.

SECTION __. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3021 to read as follows:

Sec. 56.3021. STUDENTS ENROLLED IN PRIVATE OR INDEPENDENT INSTITUTIONS; LIMITED ELIGIBILITY FOR GRANT. (a) Notwithstanding any other provision of this subchapter, a student who was initially awarded a TEXAS grant under this subchapter to pay the costs of enrollment in a private or independent institution of higher education for the 2005 fall semester or an earlier academic period may continue to receive grants under this subchapter while enrolled in a private or independent institution of higher education if the student is otherwise eligible to receive a grant under this subchapter.

(b) For purposes of determining the eligibility of a student to continue to receive a grant under this section, a reference in this subchapter to an eligible institution includes a private or independent institution of higher education.

(c) The amount of a TEXAS grant under this section for a student enrolled full-time at a private or independent institution of higher education is the amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

(d) Notwithstanding Subsection (c) or other law, the total amount of financial aid that a student enrolled in a private or independent institution of higher education is eligible to receive in a state fiscal year from TEXAS grants awarded under this section may not exceed the maximum amount the student may receive in tuition equalization grants in that fiscal year as determined under Subchapter F, Chapter 61.

(e) Notwithstanding Subsection (c) or other law, a student enrolled in a private or independent institution of higher education may not receive a TEXAS grant under this section and a tuition equalization grant under Subchapter F, Chapter 61, for the same semester or other term, regardless of whether the student is otherwise eligible for both grants during that semester or term. A student who but for this subsection would be awarded both a TEXAS grant and a tuition equalization grant for the same semester or other term is entitled to receive only the grant of the greater amount.

(f) This section expires September 1, 2015.

(2) In SECTION 25 of the bill (page 19, lines 6-8), strike the recital and substitute "Section 56.304, Education Code, is amended by amending Subsections (a) and (e) and adding Subsections (e-1) and (e-2) to read as follows:".

(3) In SECTION 25 of the bill, between the recital and amended Subsection (e), Section 56.304, Education Code (page 19, between lines 8 and 9), insert the following:

(a) To be eligible initially for a TEXAS grant, a person must:

- (1) be a resident of this state as determined by coordinating board rules;
- (2) meet either of the following academic requirements:

(A) be a graduate of a public or accredited private high school in this state who graduated not earlier than the 1998-1999 school year and who completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or its equivalent; or

(B) have received an associate degree from a public or private ~~an~~ ~~eligible~~ institution of higher education not earlier than May 1, 2001;

(3) meet financial need requirements as defined by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at an eligible institution;

(5) be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for at least three-fourths of a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from a public or private ~~an eligible~~ institution of higher education;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

(4) In SECTION 26 of the bill, in Paragraph (B), Subdivision (2), of amended Subsection (e), Section 56.305, Education Code (page 20, line 25), between "attempted at" and "institutions", insert "public or private".

(5) In SECTION 26 of the bill, in proposed Paragraph (B), Subdivision (2), Subsection (e-1), Section 56.305, Education Code (page 21, line 11), between "attempted at" and "institutions", insert "public or private".

(6) In the recital to SECTION 27 of the bill (page 22, line 1), strike "Subsections (b)" and substitute "Subsections (a)".

(7) In SECTION 27 of the bill, strike amended Subsection (b), Section 56.307, Education Code (page 22, lines 3-9), and substitute the following:

(a) The amount of a TEXAS grant for a semester or term for a person enrolled full-time at an eligible institution other than an institution covered by Subsection ~~[(b),]~~ (c)[~~]~~ or (d) is the amount determined by the coordinating board as the average statewide amount of tuition and required fees that a resident student enrolled full-time in a baccalaureate degree program would be charged for that semester or term at general academic teaching institutions.

(8) Strike SECTION 28 of the bill (page 24, lines 5-24).

(9) In SECTION 43 of the bill, following proposed Subsection (e), Section 61.2251, Education Code (page 39, between lines 18 and 19), insert the following:

(f) If a person fails to meet any of the requirements of Subsection (c) after the completion of any semester or term, the person may not receive a tuition equalization grant during the next semester or term in which the person enrolls. A person may become eligible to receive a tuition equalization grant in a subsequent semester or term if the person:

(1) completes a semester or term during which the student is not eligible for a tuition equalization grant; and

(2) meets all the requirements of Subsection (c).

(10) In SECTION 44 of the bill, strike proposed Subsection (d), Section 61.227, Education Code (page 39, line 21, through page 40, line 2), and substitute the following:

(d) Notwithstanding any restrictions provided by Subsection (c) on the amount of a grant, a tuition equalization grant for an academic period for a student who establishes exceptional financial need in accordance with the procedures and rules of the coordinating board may be certified by the coordinating board in an amount not to exceed 150 percent of the amount of the grant that the student would otherwise have been awarded for that period under the other provisions of this section.

(11) Add the following appropriately numbered SECTION to the bill:

SECTION __. Subsection (b), Section 56.307, Education Code, is repealed.

(12) Renumber other SECTIONS of the bill accordingly.

Amendment No. 12 was withdrawn.

Amendment No. 13

Representative Howard offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** by adding the following appropriately numbered SECTIONS to the bill and renumbering existing SECTIONS of the bill accordingly:

SECTION __. Section 56.304(a), Education Code, is amended to read as follows:

(a) To be eligible initially for a TEXAS grant, a person must:

(1) be a resident of this state as determined by coordinating board rules;

(2) meet either of the following academic requirements:

(A) be a graduate of a public or ~~accredited~~ private high school, including a home school, in this state who graduated not earlier than the 1998-1999 school year and who completed the recommended or advanced high school curriculum established under Section 28.002 or 28.025 or its equivalent; or

(B) have received an associate degree from an eligible institution not earlier than May 1, 2001;

(3) meet financial need requirements as defined by the coordinating board;

(4) be enrolled in an undergraduate degree or certificate program at an eligible institution;

(5) be enrolled as:

(A) an entering undergraduate student for at least three-fourths of a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for at least three-fourths of a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from an eligible institution;

(6) have applied for any available financial aid or assistance; and

(7) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

SECTION __. Section 56.455, Education Code, is amended to read as follows:

Sec. 56.455. INITIAL ELIGIBILITY FOR LOAN. To be eligible initially for a Texas B-On-time loan, a person must:

(1) be a resident of this state for purposes of Subchapter B, Chapter 54;

(2) meet one of the following academic requirements:

(A) be a graduate of a public or ~~accredited~~ private high school, including a home school, in this state who graduated not earlier than the 2002-2003 school year under the recommended or advanced high school program established under Section 28.025(a); or

(B) have received an associate degree from an eligible institution not earlier than May 1, 2005;

(3) be enrolled for a full course load for an undergraduate student, as determined by the coordinating board, in an undergraduate degree or certificate program at an eligible institution;

(4) be eligible for federal financial aid, except that a person is not required to meet any financial need requirement applicable to a particular federal financial aid program; and

(5) comply with any additional nonacademic requirement adopted by the coordinating board under this subchapter.

SECTION __. The change in law made by this Act in amending Sections 56.304(a) and 56.455, Education Code, applies beginning with student financial aid awarded for the 2006-2007 academic year. The change in law does not affect student financial aid awarded for an academic period before that academic year, and the former law is continued in effect for that purpose.

Amendment No. 13 was adopted.

Amendment No. 14

Representative Campbell offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** by adding the following new SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter M, Chapter 56, Education Code, is amended by adding Section 56.3012 to read as follows:

Sec. 56.3012. PILOT PROJECT TO PROVIDE INCENTIVES FOR ATTENDANCE AT UNDERUTILIZED PUBLIC INSTITUTIONS. (a) The coordinating board shall establish a TEXAS grant pilot project as provided by this section to encourage students to attend eligible public institutions of higher education that offer extensive baccalaureate degree program options and that have sufficient facilities, administrative infrastructure, and faculty to serve additional students in order to reduce the need for this state to construct additional facilities or hire additional faculty at other institutions of higher education.

(b) From money available under Section 56.310 for purposes of this subchapter and money available under Section 56.464 for purposes of Subchapter Q, the coordinating board shall set aside sufficient money to provide TEXAS grants for the 2005-2006 and 2006-2007 academic years to students who are initially eligible for a grant under Section 56.304 or 56.3041 in either of those years as follows:

(1) for not more than 400 additional students in excess of the total of fall 2004 TEXAS Grant awards at Angelo State University; and

(2) for not more than 200 additional students in excess of the total of fall 2004 TEXAS Grant awards at Sul Ross State University.

(c) To the extent money set aside under Subsection (b) is available for the purpose, a person awarded a grant as provided by Subsection (b) who continues to be eligible for a grant under Section 56.305 may receive a grant from the money set aside. If money set aside under Subsection (b) is not available to pay for a grant for a person awarded a grant as provided by Subsection (b) who continues to be eligible for a grant under Section 56.305, the person may receive a grant from the money available under Section 56.310 on the same basis as other TEXAS grant applicants.

(d) The coordinating board shall reallocate for grants under this subchapter or for loans under Subchapter Q, as applicable, any money set aside for purposes of the TEXAS grant pilot project that is not used in the academic year for which the money is set aside. Money reallocated under this subsection may be used at any eligible institution under this subchapter or Subchapter Q.

(e) Except as otherwise specifically provided by this section, this subchapter applies to a TEXAS grant awarded under this section.

(f) The coordinating board shall develop criteria for evaluating the TEXAS grant pilot project and, based on that evaluation, not later than January 1, 2007, shall report to the 80th Legislature the coordinating board's recommendations concerning whether to continue, expand to other underutilized eligible public institutions of higher education, or discontinue the TEXAS grant pilot project.

SECTION __. The Texas Higher Education Coordinating Board shall adopt rules to administer Section 56.3012, Education Code, as added by this Act, as soon as practicable after the date this Act takes effect. For that purpose, the board may adopt the initial rules in the manner provided by law for adoption of emergency rules.

Amendment No. 14 was withdrawn.

Amendment No. 15

Representative Harper-Brown offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** (House committee printing) by adding the following appropriately numbered ARTICLE and renumbering subsequent ARTICLES accordingly:

ARTICLE __. TREATMENT OF CERTAIN FEES RECEIVED BY
INSTITUTIONS OF HIGHER EDUCATION

SECTION __.01. Section 51.009(c), Education Code, is amended to read as follows:

(c) Each of the following shall be accounted for as educational and general funds:

(1) net tuition, special course fees charged under Sections 54.051(e) and (l), Education Code, lab fees, student teaching fees, [~~hospital and clinic fees,~~] organized activity fees, proceeds from the sale of educational and general equipment, and indirect cost recovery fees; and

(2) hospital and clinic fees received by a state-owned clinical care facility that is operated using general revenue fund appropriations for patient care.

SECTION __.02. Section 51.009(c), Education Code, as amended by this article, applies to fees collected on or after the effective date of this Act. A fee collected before that date is governed by the law in effect when the fee is collected, and that law is continued in effect for that purpose.

Amendment No. 15 was withdrawn.

(Speaker in the chair)

Amendment No. 16

Representative Gallego offered the following amendment to **CSSB 1227**:

Amend **CSSB 1227** adding an appropriately numbered section to read as follows:

"SECTION _____. (a) The Legislative Oversight Committee shall review tuition deregulation and make recommendations to the 80th Legislature for its continuation or repeal. The report shall be submitted by January 1, 2007, to the Legislature.

(b) Section 54.0513, Education Code shall be repealed on September 1, 2008, unless the Legislature passes legislation to continue its existence."

CSSB 1227 - POINT OF ORDER

Representative Harper-Brown raised a point of order against further consideration of **CSSB 1227** under Rule 4, Section 32 and Rule 4, Section 41 of the House Rules on the grounds that the committee substitute is not germane and the reports of the standing committee were not properly duplicated and filed.

The point of order was withdrawn.

Representative Morrison moved to table Amendment No. 16.

A record vote was requested.

The motion to table prevailed by (Record 810): 79 Yeas, 48 Nays, 1 Present, not voting.

Yeas — Allen, A.; Bailey; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Dutton; Edwards; Eissler; Elkins; Farrar; Flores; Flynn; Gattis; Griggs; Grusendorf; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hill; Hope; Hunter; Hupp; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Laubenberg; Luna; Madden; McCall; McClendon; Menendez; Miller; Morrison; Nixon; Oliveira; Orr; Otto; Paxton; Pitts; Puente; Reyna; Riddle; Rose; Seaman; Smith, T.; Smithee; Solis; Straus; Swinford; Talton; Taylor; Turner; Uresti; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Burnam; Casteel; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Escobar; Farabee; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Herrero; Hilderbran; Hochberg; Homer; Hopson; Howard; Hughes; Isett; Jones, J.; King, T.; Kuempel; Laney; Leibowitz; Martinez; Martinez Fischer; McReynolds; Merritt; Moreno, P.; Mowery; Naishtat; Noriega, M.; Olivo; Peña; Phillips; Pickett; Quintanilla; Raymond; Rodriguez; Strama; Thompson; Veasey; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Solomons.

Absent — Allen, R.; Anderson; Baxter; Bonnen; Cook, R.; Corte; Eiland; Frost; Gallego; Geren; Goolsby; Haggerty; Hegar; Ritter; Smith, W.; Truitt; Vo.

STATEMENTS OF VOTE

When Record No. 810 was taken, I was in the house but away from my desk. I would have voted no.

Anderson

When Record No. 810 was taken, I was temporarily out of the house chamber. I would have voted no.

Bonnen

When Record No. 810 was taken, I was in the house but away from my desk. I would have voted no.

R. Cook

I was shown voting yes on Record No. 810. I intended to vote no.

Farrar

When Record No. 810 was taken, I was in the house but away from my desk. I would have voted no.

Gallego

I was shown voting yes on Record No. 810. I intended to vote no.

Gattis

I was shown voting yes on Record No. 810. I intended to vote no.

Hope

I was shown voting no on Record No. 810. I intended to vote yes.

Kuempel

I was shown voting yes on Record No. 810. I intended to vote no.

Laubenberg

I was shown voting yes on Record No. 810. I intended to vote no.

Menendez

I was shown voting yes on Record No. 810. I intended to vote no.

Oliveira

I was shown voting yes on Record No. 810. I intended to vote no.

Paxton

When Record No. 810 was taken, I was in the house but away from my desk. I would have voted no.

Ritter

I was shown voting yes on Record No. 810. I intended to vote no.

T. Smith

I was shown voting yes on Record No. 810. I intended to vote no.

Swinford

CSSB 1227, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Uresti recorded voting no.)

SB 724 ON SECOND READING
(Talton - House Sponsor)

SB 724, A bill to be entitled An Act relating to the appraisal for ad valorem tax purposes of certain property used to provide low-income or moderate-income housing.

SB 724 - POINT OF ORDER

Representative Villarreal raised a point of order against further consideration of **SB 724** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is inaccurate.

The speaker sustained the point of order.

The ruling precluded further consideration of **SB 724**.

CSSB 42 ON SECOND READING
(Delisi - House Sponsor)

CSSB 42, A bill to be entitled An Act relating to health education and physical activity in public primary and secondary schools.

Amendment No. 1

Representative B. Keffer offered the following amendment to **CSSB 42**:

Amend **CSSB 42** as follows:

(1) On page 2, line 19, after the word "year." insert the following:
or the option to schedule at least two semesters overall.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives Dunnam and Eissler offered the following amendment to **CSSB 42**:

Amend **CSSB 42** on page 3, between lines 13 and 14 by inserting the following:

"(1-3) (a) This section may be cited as "Lauren's Law".

(b) The State Board of Education, the Department of State Health Services, or a school district may not adopt any rule, policy, or program under Subsections (a), (k), (l), (l-1), or (l-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

(1) children in the classroom of the child of the parent or grandparent on the occasion of the child's birthday; or

(2) children at a school-designated function."

Amendment No. 2 was adopted.

CSSB 42, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: F. Brown, Deshotel, Gallego, Hochberg, Peña, Raymond, Ritter, and Solis recorded voting no.)

SB 1022 ON SECOND READING
(Keel - House Sponsor)

SB 1022, A bill to be entitled An Act relating to the creation of the Bee Cave Development District; providing authority to impose a tax and issue a bond or similar obligation.

SB 1022 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **SB 1022** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is inaccurate.

The speaker sustained the point of order.

The ruling precluded further consideration of **SB 1022**.

CSSB 1195 ON SECOND READING
(Dutton - House Sponsor)

CSSB 1195, A bill to be entitled An Act relating to the authority of peace officers to conduct certain searches.

Amendment No. 1

Representative Dutton offered the following amendment to **CSSB 1195**:

Amend **CSSB 1195** (House Committee Report) in SECTION 1 of the bill, in proposed Subsection (b), Article 1.06, Code of Criminal Procedure (page 1, between lines 17 and 18), by inserting the following new Subdivision (2) and renumbering the subsequent subdivisions of that section accordingly:

(2) conducts a search for weapons based on a reasonable fear for the officer's safety or the safety of others;

Amendment No. 1 was adopted.

A record vote was requested.

CSSB 1195, as amended, was passed to third reading by (Record 811): 96 Yeas, 41 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Bailey; Baxter; Berman; Blake; Branch; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Coleman; Cook, R.; Crabb; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eissler; Elkins; Escobar; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Hamric; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hope; Hopson; Hughes; Hunter; Hupp; Jones, J.; Keffer, B.; Keffer, J.; King, T.; Kolkhorst; Kuempel; Laney; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Mowery; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smithee; Solis; Strama; Swinford; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo.

Nays — Anderson; Bohac; Bonnen; Brown, B.; Chisum; Cook, B.; Corte; Dawson; Delisi; Denny; Driver; Eiland; Farabee; Flynn; Gattis; Haggerty; Hamilton; Hardcastle; Harper-Brown; Hartnett; Homer; Howard; Jackson; Jones, D.; Keel; King, P.; Krusee; Laubenberg; Morrison; Nixon; Orr; Otto; Phillips; Reyna; Smith, W.; Talton; Taylor; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Solomons.

Absent — Crownover; Isett; McClendon; Paxton; Pitts; Straus; Truitt.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 811. I intended to vote no.

Berman

I was shown voting yes on Record No. 811. I intended to vote no.

Blake

When Record No. 811 was taken, I was in the house but away from my desk. I would have voted no.

Crownover

I was shown voting yes on Record No. 811. I intended to vote no.

Eissler

I was shown voting yes on Record No. 811. I intended to vote no.

Hilderbran

I was shown voting yes on Record No. 811. I intended to vote no.

Kuempel

SB 1528 ON SECOND READING

(Morrison - House Sponsor)

SB 1528, A bill to be entitled An Act relating to the payment of tuition and fees at public institutions of higher education and the determination of Texas residency for that purpose.

Amendment No. 1

Representative Morrison offered the following amendment to **SB 1528**:

Amend **SB 1528** by adding the following Section.

Section __. Amend Section 54.203, (g), Education Code to read as follows:

(g) The governing board of a junior college district may establish a fee for extraordinary costs associated with a specific course or program and may provide that the exemptions provided by Subsections (a) and (b) do not apply to this fee ~~provide that the exemptions provided by Subsections (a) and (b) do not apply to a course fee or training fee charged a student by the junior college district to cover the flight time costs associated with a course in aircraft flight training, to the extent those costs are incurred by a student:~~

- ~~1. who does not have a private pilot rating; or~~
- ~~2. who has a private pilot rating but is not actively seeking to fulfill the requirements of the Federal Aviation Administration for an additional certification or rating.~~

Amendment No. 1 was adopted.

Amendment No. 2

Representative Uresti offered the following amendment to **SB 1528**:

Amend **SB 1528** (house committee report) by adding the following appropriately numbered sections to the bill and renumbering subsequent sections of the bill accordingly:

SECTION __. Section 54.203, Education Code, is amended by adding Subsection (h) to read as follows:

(h) In determining whether to admit a person to any certificate program or any baccalaureate, graduate, postgraduate, or professional degree program, an institution of higher education may not consider the fact that the person is eligible for an exemption under this section.

SECTION __. Subsection (h), Section 54.203, Education Code, as added by this Act, applies beginning with admissions to a public institution of higher education for the 2006 spring semester. Admissions to a public institution of higher education before that semester are covered by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Coleman offered the following amendment to **SB 1528**:

Amend **SB 1528** by adding the appropriately numbered section as follows and by renumbering any remaining sections accordingly:

"SECTION __. The Coordinating Board shall compile data on the tuition and fees charged at each two-year and four-year institution of public higher education, beginning with the fall semester of 2003 through the spring semester of 2007, and shall submit a report to the 80th Texas Legislature describing the amount and percent change per semester for each institution and ranking the two- and four-year institutions in order of the total increase."

Amendment No. 3 was adopted.

Amendment No. 4

Representative Gallego offered the following amendment to **SB 1528**:

Amend **SB 282** on page __, between lines 10 and 11 by adding:

"(5) whether the sale or transfer was pursuant to the power of eminent domain".

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Thompson offered the following amendment to **SB 1528**:

Amend **SB 1528** on page 4, between lines 7 and 8, by inserting a new Section 4 to read as follows and renumber the subsequent sections appropriately:

"SECTION 4. (a) The Legislative Oversight Committee shall review tuition deregulation, tuition rates in this state and others, funding levels in this state and others, and fees in this state and others, and make recommendations to the 80th Legislature for its continuation or repeal. The report shall be submitted by January 1, 2007 to the Legislature.

(b) Section 54.0513, Education Code shall be repealed on September 1, 2008 unless the Legislature passes legislation to continue its existence."

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Gallego offered the following amendment to **SB 1528**:

Amend **SB 1528** by adding the following section, appropriately numbered, and renumbering subsequent sections accordingly:

SECTION __. Section 65.45, Education Code, is amended by adding Subsection (d) to read as follows:

(d) To the extent provided for in an agreement authorized by this section, a person employed by the entity with whom the system enters such an agreement, or the person's spouse or child, may pay the tuition and fees charged to residents of this state when enrolled in a system institution.

Amendment No. 6 was adopted.

SB 1528, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero recorded voting no.)

CSSB 1142 ON SECOND READING
(Hamric - House Sponsor)

CSSB 1142, A bill to be entitled An Act relating to the creation of a film industry incentive program.

CSSB 1142 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Flynn, Harper-Brown, and Laubenberg recorded voting no.)

SB 578 ON SECOND READING
(Hope - House Sponsor)

SB 578, A bill to be entitled An Act relating to the authority of certain honorably retired peace officers to carry certain weapons.

SB 578 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSSB 14 ON SECOND READING
(Smithee - House Sponsor)

CSSB 14, A bill to be entitled An Act relating to rates for certain property and casualty insurance.

CSSB 14 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

**HB 1048 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Chisum called up with senate amendments for consideration at this time,

HB 1048, A bill to be entitled An Act relating to the forfeiture of contraband used or intended to be used in the commission of certain criminal offenses.

Representative Chisum moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1048**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1048**: Chisum, chair; Blake; Jackson; Vo; and Leibowitz.

**HB 2614 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Eiland called up with senate amendments for consideration at this time,

HB 2614, A bill to be entitled An Act relating to the applicability of certain insurance laws to Lloyd's plans and reciprocal and interinsurance exchanges.

Representative Eiland moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2614**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2614**: Eiland, chair; Thompson; Smithee; Van Arsdale; and B. Keffer.

**HB 585 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Corte called up with senate amendments for consideration at this time,

HB 585, A bill to be entitled An Act relating to the requirements for the incorporation of a municipality in the extraterritorial jurisdiction of certain existing municipalities.

Representative Corte moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 585**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 585**: Corte, chair; Mowery; Hilderbran; Leibowitz; and R. Cook.

**HB 137 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative B. Keffer called up with senate amendments for consideration at this time,

HB 137, A bill to be entitled An Act relating to "Welcome to Texas" signs.

Representative B. Keffer moved to concur in the senate amendments to **HB 137**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

HB 137, A bill to be entitled An Act relating to "Welcome to Texas" signs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.617 to read as follows:

Sec. 201.617. "WELCOME TO TEXAS" SIGNS. (a) The department may erect a "Welcome to Texas" sign to designate the state boundary on an interstate, United States, or state highway entering the state.

(b) A "Welcome to Texas" sign erected by the department must include the following elements:

(1) a depiction of the state flag;

(2) the phrase "Drive Friendly—The Texas Way"; and

(3) the phrase "Welcome to Texas—Proud to be the Home of President George W. Bush."

SECTION 2. The Texas Department of Transportation shall ensure that a "Welcome to Texas" sign erected by the department before the effective date of this Act complies with this Act not later than January 1, 2006.

SECTION 3. This Act takes effect September 1, 2005.

**HB 833 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gattis called up with senate amendments for consideration at this time,

HB 833, A bill to be entitled An Act relating to hours of sale for certain alcoholic beverages in certain areas.

Representative Gattis moved to concur in the senate amendments to **HB 833**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 812): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, P.; Morrison; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Solomons.

Absent — Flores; Geren; Hill; Merritt; Mowery.

Senate Committee Substitute

HB 833, A bill to be entitled An Act relating to hours of sale for certain alcoholic beverages in certain areas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 105.03(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) In a city or county having a population of 800,000 [~~500,000~~] or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a mixed beverage late hours permit may also sell and offer for sale mixed beverages between midnight and 2 a.m. on any day.

(d) In a city or county other than a city or county described by Subsection (c) [~~having a population of less than 500,000, according to the last preceding federal census~~], the extended hours prescribed in Subsection (c) of this section are effective for the sale of mixed beverages and the offer to sell them by a holder of a mixed beverages late hours permit:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

SECTION 2. Sections 105.05(c) and (d), Alcoholic Beverage Code, are amended to read as follows:

(c) In a city or county having a population of 800,000 [~~500,000~~] or more, according to the last preceding federal census, or 500,000 or more, according to the 22nd Decennial Census of the United States, as released by the Bureau of the Census on March 12, 2001, a holder of a retail dealer's on-premise late hours license may also sell, offer for sale, and deliver beer between midnight and 2 a.m. on any day.

(d) In a city or county other than a city or county described by Subsection (c) [~~having a population of less than 500,000, according to the last preceding federal census~~], the extended hours prescribed in Subsection (c) of this section, or any part of the extended hours prescribed in Subsection (c) of this section are effective for the sale, offer to sell, and delivery of beer by a holder of a retail dealer's on-premise late hours license:

(1) in the unincorporated areas of the county if the extended hours are adopted by an order of the commissioners court; and

(2) in an incorporated city or town if the extended hours are adopted by an ordinance of the governing body of the city or town.

SECTION 3. The changes in law made by this Act apply only to the sale of or offer to sell an alcoholic beverage on or after the effective date of this Act. The sale of or offer to sell an alcoholic beverage before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 283 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Hope called up with senate amendments for consideration at this time,

HB 283, A bill to be entitled An Act relating to admission, assignment, and conduct of certain public school students.

Representative Hope moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 283**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 283**: Hope, chair; Thompson; Goodman; Dutton; and Goolsby.

HB 1609 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Chisum called up with senate amendments for consideration at this time,

HB 1609, A bill to be entitled An Act relating to the allowed wastes and exemptions applicable to certain municipal solid waste landfill units in arid areas.

Representative Chisum moved to concur in the senate amendments to **HB 1609**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1609** by adding SECTION 1, SECTION 2, SECTION 3, SECTION 5 and SECTION 6 as follows and renumbering the existing sections appropriately:

SECTION 1. Section 361.0666(a), Health and Safety Code, is amended to read as follows:

(a) An applicant for a permit under this chapter for a new facility that accepts municipal solid wastes may ~~shall~~ hold a public meeting in the county in which the proposed facility is to be located. ~~[The meeting must be held before the 45th day after the date the application is filed.]~~

SECTION 2. Section 361.0791(a) and (b), Health and Safety Code, is amended to read as follows:

(a) Notwithstanding other law, the commission may ~~shall~~ hold a public meeting on an application for a new hazardous waste management facility in the county in which the proposed hazardous waste management facility is to be located. ~~The commission [on request of a person affected or as otherwise required by commission rule.]~~ may ~~shall~~ hold a public meeting on an application for a Class 3 modification or a major amendment to an existing facility's hazardous waste permit.

(b) Notwithstanding other law, the commission may ~~shall~~ hold a public meeting on an application for a new municipal solid waste management facility in the county in which the proposed municipal solid waste management facility is to be located.

SECTION 3. Section 361.082(d), Health and Safety Code, is amended to read as follows:

(d) In addition to the hearing held under this section, the commission may ~~shall~~ hold a public meeting and the applicant shall give notice as provided by Section 361.0791.

SECTION 5. Section 361.534, Health and Safety Code, is amended by amending the heading, amending Subsections (a) and (b), and adding new Subsection (c) to read as follows:

Sec. 361.534. Permit Public Meeting ~~Hearing~~.

(a) The commission may hold a public meeting on ~~[shall set a hearing to be held not later than the 30th day after the date that the commission receives]~~ an application under this subchapter.

(b) The commission shall hold a public meeting on an application under this subchapter:

(1) on the request of a member of the legislature who represents the general area in which the development is proposed to be located; or

(2) if the executive director determines that there is substantial public interest in the proposed development.

(c) The commission by mail shall notify the applicant of the date, time, and place of the public meeting [~~hearing not later than the 15th day before the date of the hearing~~]. The commission shall require the applicant to publish notice of the public meeting [~~hearing~~] in a newspaper that is generally circulated in each county in which the property proposed for development is located. The published notice must appear at least once a week for the two weeks before the date of the public meeting [~~hearing~~].

SECTION 6. The changes in law made by this Act to Health and Safety Code Sections 361.0666(a), 361.0791(a) and (b), 361.082(d), and 361.534 apply only to an application that is filed on or after the effective date of this Act. An application that was filed before the effective date of this Act is governed by the former law, and that law is continued in effect for that purpose.

HB 3147 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Turner called up with senate amendments for consideration at this time,

HB 3147, A bill to be entitled An Act relating to authorizing the Texas Building and Procurement Commission to enter into more favorable lease with option to purchase agreements with regards to certain space currently occupied under lease with option to purchase agreements.

Representative Turner moved to concur in the senate amendments to **HB 3147**.

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 813): 140 Yeas, 2 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Bonnen; Burnam.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Giddings; Solomons.

Absent — McClendon; Merritt.

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 3147** by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter J, Chapter 2166, Government Code, is amended by adding Sections 2166.454, 2166.4541, and 2166.4542 to read as follows:

Sec. 2166.454. PURCHASING OR OBTAINING MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS WITH REGARD TO CERTAIN LEASED SPACE. (a) This section and Sections 2166.4541 and 2166.4542 apply only in relation to space currently occupied by a state agency under one of seven lease with an option to purchase agreements:

(1) entered into by the state before December 1994, for the benefit of the Texas Commission on Environmental Quality or its predecessor agency, the office of the attorney general, the successor of the Department of Human Services, the Department of Family and Protective Services, or the Texas Department of Transportation; and

(2) under which the state may acquire title to the space by paying the purchase price remaining under the terms of the agreement on September 1 of an odd-numbered year.

(b) If the commission determines that it is advantageous to the state, the commission may:

(1) request the Texas Public Finance Authority to issue revenue bonds to finance the purchase of any or all of the space to which this section applies in accordance with Section 2166.4542 and Chapter 1232, if the commission determines that it is more advantageous to the state to purchase the space than to enter into a more favorable lease with an option to purchase agreement under Section 2166.4541 for that space; or

(2) enter into a more favorable lease with an option to purchase agreement with regard to any or all of the space to which this section applies by taking the actions authorized by Section 2166.4541 under the conditions prescribed by Section 2166.4541, if the commission determines that it is more advantageous to the state to enter into a more favorable lease with an option to purchase agreement for that space than to purchase the space under Section 2166.4542 and Chapter 1232.

(c) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by this section and Section 2166.4541 or 2166.4542 that occurs before that date.

Sec. 2166.4541. ENTERING INTO MORE FAVORABLE LEASE WITH OPTION TO PURCHASE AGREEMENTS. (a) Subject to Section 2166.454(b), the commission may issue sale and lease purchase revenue obligations in accordance with this section and use the proceeds of the revenue obligations to:

(1) pay the commission's expenses in connection with issuing the revenue obligations;

(2) purchase any or all of the space described by Section 2166.454(a) according to the terms of the applicable existing lease with an option to purchase agreement or agreements; and

(3) if it is advisable to make capital improvements to the space, pay for making the capital improvements.

(b) The revenue obligations issued under Subsection (a) must be paid in their entirety immediately after issuance by using the proceeds of the concurrent sale of the space by the commission to a third party who agrees to lease the space back to the state with an option to purchase under the following conditions:

(1) the term of the new lease with an option to purchase agreement does not exceed the remaining term on the applicable existing lease with an option to purchase agreement, as of the date on which the transactions described by this section occur; and

(2) the cost to the state under the new lease with an option to purchase agreement is less than the cost to the state under the existing lease with an option to purchase agreement and the difference in cost justifies any costs incurred by the commission and the state in taking actions under this section with regard to the space.

(c) The commission shall obtain the approval of the Bond Review Board before issuing a sale and lease purchase revenue obligation under this section.

(d) Any sale and lease purchase revenue obligations issued by the commission under this section and any lease with an option to purchase agreement entered into under this section must be submitted to the attorney general for review and approval. If the attorney general determines that the obligation or agreement, as applicable, entered into under this section complies with this section, the attorney general shall approve the issuance of the obligation or the agreement, as applicable. On approval by the attorney general, the obligation or agreement, as applicable, is incontestable for any cause.

(e) A sale and lease purchase revenue obligation issued under this section is not a debt of the state or any state agency, is not a pledge of the faith and credit or the taxing power of the state, and may be paid only from the proceeds of the concurrent sale of the space to which the sale and lease purchase revenue obligation relates. A sale and lease purchase revenue obligation issued under this section must contain a statement to that effect.

(f) A lease with an option to purchase agreement entered into under this section must contain a statement that the agreement is not a debt of the state or any state agency and is contingent on continued legislative appropriations for making the lease payments.

(g) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by Section 2166.454 and this section that occurs before that date.

Sec. 2166.4542. PURCHASING CERTAIN LEASED SPACE. (a) Subject to Section 2166.454(b), the commission may purchase any or all of the space described by Section 2166.454(a) in accordance with this section and Chapter 1232.

(b) The commission shall request the Texas Public Finance Authority to issue revenue obligations to finance the purchase price of any or all of the space described by Section 2166.454(a) that the commission elects to purchase under this section. The authority shall issue the revenue obligations in accordance with and subject to all provisions of Chapter 1232 applicable to revenue obligations, including all provisions relating to ensuring that the revenue obligations are paid, except that Section 1232.108(2) does not apply.

(c) The authority shall issue the revenue obligations in amounts sufficient to:

(1) pay the authority's expenses in connection with issuing the revenue obligations;

(2) pay the purchase price of the space described by Section 2166.454(a) included in the request of the commission according to the terms of the applicable existing lease with an option to purchase agreement or agreements; and

(3) if the commission considers it advisable to make capital improvements to the space, pay for making the capital improvements.

(d) At the time that a building is purchased under this section, money specifically appropriated by the legislature to an agency occupying space in the building for lease payments under the applicable lease with an option to purchase agreement, or the money available to and budgeted by the agency for that purpose, shall be transferred to the commission and used by the commission only to make the required lease or rental payments to the authority during the remainder of the state fiscal biennium during which the building was purchased under this section.

(e) This section expires September 2, 2008, except that this section is continued in effect after that date for the limited purpose of applying with regard to any transaction authorized by Section 2166.454 and this section that occurs before that date.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

(Giddings now present)

**HB 1480 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gattis called up with senate amendments for consideration at this time,

HB 1480, A bill to be entitled An Act relating to the issuance of special license plates to benefit certain programs.

Representative Gattis moved to concur in the senate amendments to **HB 1480**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1480** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) Section 504.3135, Transportation Code, is amended to read as follows:

Sec. 504.3135. OPERATION IRAQI FREEDOM. The department shall issue without charge specialty license plates for persons who served in the United States armed forces and participated in Operation Iraqi Freedom ~~[on or after November 8, 2002, or on or before May 1, 2003]~~. License plates issued under this section must include the words "Operation Iraqi Freedom."

(b) The change in law made by this section applies only to a registration period beginning on or after the effective date of this Act.

**HB 1708 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Baxter called up with senate amendments for consideration at this time,

HB 1708, A bill to be entitled An Act relating to the applicability of state ethics laws to and indemnification of directors of regional mobility authorities; providing penalties.

Representative Baxter moved to concur in the senate amendments to **HB 1708**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1708** by striking SECTION 2 of the bill (committee report, page 1, line 59, through page 2, line 4) and substituting the following:

SECTION 2. Section 370.258, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) If an officer or director who has been indemnified by an authority under Subsection (a) is subsequently convicted of an offense involving the conduct for which the officer or director was indemnified, the officer or director is liable to the authority for the amount of indemnification paid, with interest at the legal rate for interest on a judgment from the date the indemnification was paid.

**HB 268 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Keel called up with senate amendments for consideration at this time,

HB 268, A bill to be entitled An Act relating to the qualifications and appointment of counsel for indigent defendants in capital cases.

Representative Keel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 268**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 268**: Keel, chair; Denny; Reyna; Hodge; and Peña.

**HB 1038 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Isett called up with senate amendments for consideration at this time,

HB 1038, A bill to be entitled An Act relating to certain reduced fees for a license to carry a concealed handgun.

Representative Isett moved to concur in the senate amendments to **HB 1038**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

Senate Committee Substitute

HB 1038, A bill to be entitled An Act relating to certain reduced fees for a license to carry a concealed handgun.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 411.195, Government Code, is amended to read as follows:

Sec. 411.195. REDUCTION OF FEES FOR SENIOR CITIZENS. Notwithstanding any other provision of this subchapter, the department shall reduce by 50 percent any fee required for the issuance of an original, duplicate, [or] modified, or renewed license under this subchapter if the applicant for the license is 60 years of age or older.

SECTION 2. This Act applies only to a renewal that occurs on or after the effective date of this Act. A renewal that occurs before the effective date of this Act is covered by the law in effect on the date of the renewal, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2005.

**HB 1044 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Eiland called up with senate amendments for consideration at this time,

HB 1044. A bill to be entitled An Act relating to exceptions for certain overweight vehicles.

Representative Eiland moved to concur in the senate amendments to **HB 1044.**

A record vote was requested.

The motion to concur in senate amendments prevailed by (Record 814): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Strama; Straus; Swinford; Talton; Taylor; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent, Excused, Committee Meeting — Solomons.

Absent — Crabb; Flores; Grusendorf; Merritt; Truitt.

Senate Committee Substitute

HB 1044. A bill to entitled An Act relating to an optional procedure for the issuance of a permit by a certain county for the movement of oversize or overweight vehicles.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 623, Transportation Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. CHAMBERS COUNTY PERMITS

Sec. 623.250. OPTIONAL PROCEDURE. This subchapter provides an optional procedure for the issuance of a permit by Chambers County for the movement of oversize or overweight vehicles carrying cargo on certain state highways located in Chambers County.

Sec. 623.251. DEFINITION. In this subchapter, "county" means Chambers County.

Sec. 623.252. ISSUANCE OF PERMITS. (a) The Texas Transportation Commission may authorize the county to issue permits for the movement of oversize or overweight vehicles carrying cargo on state highways located in Chambers County.

(b) A permit issued under this subchapter may authorize:

(1) the transport of cargo only on the following roads in Chambers County:

(A) Farm-to-Market Road 1405; and

(B) the frontage road of State Highway 99 located in the Cedar Crossing Business Park; and

(2) the movement of equipment and commodities weighing 100,000 pounds or less.

Sec. 623.253. MAINTENANCE CONTRACTS. The county shall make payments to the department to provide funds for the maintenance of state highways subject to this subchapter.

Sec. 623.254. PERMIT FEES. (a) The county may collect a fee for permits issued under this subchapter. The fee may not exceed \$80 per trip.

(b) Fees collected under Subsection (a) may be used only to provide funds for the payments under Section 623.253 and for the county's administrative costs, which may not exceed 15 percent of the fees collected. The fees shall be deposited in the state highway fund. Fees deposited in the state highway fund under this section are exempt from the application of Section 403.095, Government Code.

Sec. 623.255. PERMIT REQUIREMENTS. (a) A permit issued under this subchapter must include:

(1) the name of the applicant;

(2) the date of issuance;

(3) the signature of the designated agent for the county;

(4) a statement of the kind of cargo being transported, the maximum weight and dimensions of the equipment, and the kind and weight of each commodity to be transported;

(5) a statement of any condition on which the permit is issued;

(6) a statement that the cargo may be transported in Chambers County only over Farm-to-Market Road 1405 and the frontage road of State Highway 99 located in the Cedar Crossing Business Park; and

(7) the location where the cargo was loaded.

(b) The county shall report to the department all permits issued under this subchapter.

Sec. 623.256. TIME OF MOVEMENT. A permit issued under this subchapter must specify the time during which movement authorized by the permit is allowed.

Sec. 623.257. SPEED LIMIT. Movement authorized by a permit issued under this subchapter may not exceed the posted speed limit or 55 miles per hour, whichever is less. A violation of this provision constitutes a moving violation.

Sec. 623.258. ENFORCEMENT. The Department of Public Safety has authority to enforce this subchapter.

Sec. 623.259. RULES. The Texas Transportation Commission may adopt rules necessary to implement this subchapter.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

HB 1763 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative R. Cook called up with senate amendments for consideration at this time,

HB 1763, A bill to be entitled An Act relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.

Representative R. Cook moved to concur in the senate amendments to **HB 1763**.

The motion to concur in senate amendments prevailed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: T. King recorded voting no.)

Senate Amendment No. 1 (Senate Floor Amendment No. 1)

Amend **HB 1763** by adding the following sections and renumber accordingly:

SECTION ____ . Section 16.053, Water Code, is amended by amending Subsection (e) and (p) and adding Subsections (p-1), (p-2), (p-3) and (p-4) to read as follows:

(e) Each regional water planning group shall submit to the development board a regional water plan that:

(1) is consistent with the guidance principles for the state water plan adopted by the development board under Section 16.051(d);

(2) provides information based on data provided or approved by the development board in a format consistent with the guidelines provided by the development board under Subsection (d);

(3) identifies:

(A) each source of water supply in the regional water planning area, including information supplied by the executive administrator on the amount of managed available groundwater in accordance with the guidelines provided by the development board under Subsections (d) and (f);

(B) factors specific to each source of water supply to be considered in determining whether to initiate a drought response; and

- (C) actions to be taken as part of the response;
- (4) has specific provisions for water management strategies to be used during a drought of record;
- (5) includes but is not limited to consideration of the following:
- (A) any existing water or drought planning efforts addressing all or a portion of the region;
- (B) approved ~~certified~~ groundwater conservation district management plans and other plans submitted under Section 16.054;
- (C) all potentially feasible water management strategies, including but not limited to improved conservation, reuse, and management of existing water supplies, conjunctive use, acquisition of available existing water supplies, and development of new water supplies;
- (D) protection of existing water rights in the region;
- (E) opportunities for and the benefits of developing regional water supply facilities or providing regional management of water supply facilities;
- (F) appropriate provision for environmental water needs and for the effect of upstream development on the bays, estuaries, and arms of the Gulf of Mexico and the effect of plans on navigation;
- (G) provisions in Section 11.085(k)(1) if interbasin transfers are contemplated;
- (H) voluntary transfer of water within the region using, but not limited to, regional water banks, sales, leases, options, subordination agreements, and financing agreements; and
- (I) emergency transfer of water under Section 11.139, including information on the part of each permit, certified filing, or certificate of adjudication for nonmunicipal use in the region that may be transferred without causing unreasonable damage to the property of the nonmunicipal water rights holder;
- (6) identifies river and stream segments of unique ecological value and sites of unique value for the construction of reservoirs that the regional water planning group recommends for protection under Section 16.051;
- (7) assesses the impact of the plan on unique river and stream segments identified in Subdivision (6) if the regional water planning group or the legislature determines that a site of unique ecological value exists; and
- (8) describes the impact of proposed water projects on water quality.
- (p) If a groundwater conservation district files a petition with the development board stating that a conflict requiring resolution may exist between the district's approved ~~certified groundwater conservation district~~ management plan developed under Section 36.1071 and an ~~the~~ approved state ~~regional~~ water plan, the development board shall provide technical assistance to and facilitate coordination between the district and the involved region to resolve the conflict. Not later than the 45th day after the date the groundwater conservation district files a petition with the development board, if the conflict has not been resolved, the district and the involved region shall mediate the conflict. The district and the involved region may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute

resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the district and the involved region cannot resolve the conflict through mediation remains, the development board shall resolve the conflict not later than the 60th day after the date the mediation is completed as provided by Subsections (p-1) and (p-2).

(p-1) If the development board determines that resolution of the conflict requires a revision of an approved regional water plan, the development board shall suspend the approval of that plan and provide information to the regional water planning group. The regional water planning group shall prepare any revisions to its plan specified by the development board and shall hold, after notice, at least one public hearing at some central location within the regional water planning area. The regional water planning group shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board for approval and inclusion in the state water plan.

(p-2) If the development board determines that resolution of the conflict requires a revision of the district's approved certified groundwater conservation district management plan, the development board shall suspend the certification of that plan and provide information to the district. The groundwater district shall prepare any revisions to its plan based on the information provided specified by the development board and shall hold, after notice, at least one public hearing at some central location within the district. The groundwater district shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board for certification.

(p-3) If the groundwater conservation district disagrees with the decision of the development board under Subsection (p), the district may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

(p-4) On the request of the involved region or groundwater conservation district, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e).

SECTION ____ . Section 36.001, Water Code, is amended by striking Subdivision (17) amending and adding Subdivisions (4-a) and (24) through (29) to read as follows:

(4-a) "Federal conservation program" means the Conservation Reserve Program of the United States Department of Agriculture.

~~(17) "Applicant" means a newly confirmed district applying for a loan from the loan fund.~~

(24) "Total aquifer storage" means the total calculated volume of groundwater that an aquifer is capable of producing.

(25) "Managed available groundwater" means the amount of water that may be permitted by a district for beneficial use in accordance with the desired future condition of the aquifer as determined under Section 36.108.

(26) "Recharge" means the amount of water that infiltrates to the water table of an aquifer.

(27) "Inflows" means the amount of water that flows into an aquifer from another formation.

(28) "Discharge" means the amount of water that leaves an aquifer by natural or artificial means.

(29) "Evidence of historic or existing use" means evidence that is material and relevant to a determination of the amount of groundwater beneficially used without waste by a permit applicant during the relevant time period set by district rule that regulates groundwater based on historic use. Evidence in the form of oral or written testimony shall be subject to cross-examination. The Texas Rules of Evidence govern the admissibility and introduction of evidence of historic or existing use, except that evidence not admissible under the Texas Rules of Evidence may be admitted if it is of the type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

SECTION ____ . Subsections (a), (b), and (d) through (h), Section 36.1071, Water Code, are amended to read as follows:

(a) Following notice and hearing, the district shall, in coordination with surface water management entities on a regional basis, develop a comprehensive management plan which addresses the following management goals, as applicable:

- (1) providing the most efficient use of groundwater;
- (2) controlling and preventing waste of groundwater;
- (3) controlling and preventing subsidence;
- (4) addressing conjunctive surface water management issues;
- (5) addressing natural resource issues;
- (6) addressing drought conditions; and

(7) addressing conservation, recharge enhancement, rainwater harvesting, precipitation enhancement, or brush control, where appropriate and cost-effective; and

(8) addressing in a quantitative manner the desired future conditions of the groundwater resources;

(b) After January 5, 2002, a district management plan, or any amendments to a district management plan, shall be developed by the district using the district's best available data and forwarded to the regional water planning group for use consideration in their planning process.

(d) The commission shall provide technical assistance to a district during its initial operational phase. If requested by a district, the Texas Water Development Board shall train the district on basic data collection methodology and provide technical assistance to districts as provided by Section 16.0122.

(e) In the management plan described under Subsection (a), the district shall:

(1) identify the performance standards and management objectives under which the district will operate to achieve the management goals identified under Subsection (a);

(2) specify, in as much detail as possible, the actions, procedures, performance, and avoidance that are or may be necessary to effect the plan, including specifications and proposed rules;

(3) include estimates of the following:

(A) managed available groundwater in the district based on the desired future condition established under Section 36.108; ~~the existing total usable amount of groundwater in the district based on the desired future condition established under Section 36.108;~~

(B) the amount of groundwater being used within the district on an annual basis;

(C) the annual amount of recharge from precipitation, if any, to the groundwater resources within the district ~~and how natural or artificial recharge may be increased; and~~

(D) for each aquifer, the annual volume of water that discharges from the aquifer to springs and any surface water bodies, including lakes, streams, and rivers;

(E) the annual volume of flow into and out of the district within each aquifer and between aquifers in the district, if a groundwater availability model is available;

(F) the projected surface water supply in the district according to the most recently adopted state water plan; and

(G) the projected total demand for water in the district according to the most recently adopted state water plan ~~projected water supply and demand for water within the district; and~~

(4) ~~consider the address water supply needs and water management strategies included in a manner that is not in conflict with the adopted state appropriate approved regional water plan if a regional water plan has been approved under Section 16.053.~~

(f) The district shall adopt rules necessary to implement the management plan. Prior to the development of the management plan and its approval under Section 36.1072, the district may not adopt rules other than rules pertaining to the registration and interim permitting of new and existing wells and rules governing spacing and procedure before the district's board; however, the district may not adopt any rules limiting the production of wells, except rules requiring that groundwater produced from a well be put to a non-wasteful, beneficial use a district may accept applications for permits under Section 36.113, provided the district does not act on any such application until the district's management plan is approved as provided in Section 36.1072.

(g) ~~The district board~~ shall adopt amendments to the management plan as necessary. Amendments to the management plan shall be adopted after notice and hearing and shall otherwise comply with the requirements of this section.

(h) In developing its management plan, the district shall use the groundwater availability modeling information provided by the executive administrator together ~~in conjunction~~ with any available site-specific information

that has been provided by the district to the executive administrator for review and comment before being used in the plan ~~[and acceptable to the executive administrator.]~~

SECTION ____ . Section 36.1072, Water Code, is amended to read as follows:

Sec. 36.1072. TEXAS WATER DEVELOPMENT BOARD REVIEW AND APPROVAL ~~CERTIFICATION~~ OF MANAGEMENT PLAN. (a) A district shall, not later than three ~~two~~ years after the creation of the district or, if the district required confirmation, after the election confirming the district's creation, submit the management plan required under Section 36.1071 to the executive administrator for review and approval ~~certification~~.

(b) Within 60 days of receipt of a management plan adopted under Section 36.1071, readopted under Subsection (e) or (g) of this section, or amended under Section 36.1073, the executive administrator shall approve ~~certify~~ a management plan if the plan is administratively complete. A management plan is administratively complete when it contains the information required to be submitted under Section 36.1071(a) and (e).

The executive administrator may determine whether ~~that~~ conditions justify waiver of the requirements under Section 36.1071(e)(4).

(c) Once the executive administrator has approved ~~a determination that a management plan is administratively complete has been made:~~

(1) the executive administrator may not revoke but may suspend the approval as provided by Subsection (g) ~~determination that a management plan is administratively complete;~~ and

(2) the executive administrator may request additional information from the district if the information is necessary to clarify, modify, or supplement previously submitted material, but, and

~~(3)~~ a request for additional information does not render the management plan unapproved ~~incomplete~~.

(d) A management plan takes effect on approval ~~certification~~ by the executive administrator or, if appealed, on approval ~~certification~~ by the Texas Water Development Board.

(e) The ~~district board~~ may review the plan annually and must review and readopt the plan with or without revisions at least once every five years. The district shall provide the readopted plan to the executive administrator not later than the 60th day after the date on which the plan was readopted. Approval of the preceding management plan remains in effect until:

(1) the district fails to timely readopt a management plan;

(2) the district fails to timely submit the district's readopted management plan to the executive administrator; or

(3) the executive administrator determines that the readopted management plan does not meet the requirements for approval, and the district has exhausted all appeals to the Texas Water Development Board or appropriate court.

(f) If the executive administrator does not ~~approve~~ ~~certify~~ the management plan, the executive administrator shall provide to the district, in writing, the reasons for the action. Not later than the 180th day after the date a district receives notice that its management plan has not been approved ~~certified~~, the district may submit a revised management plan for review and approval ~~certification~~. The executive administrator's decision may be appealed to the Texas Water Development Board. If the Texas Water Development Board decides not to approve the management plan on appeal, the district may request that the conflict be mediated. The district and the board may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the parties do not resolve the conflict through mediation, the ~~The~~ decision of the Texas Water Development Board not ~~on whether~~ to approve ~~certify~~ the management plan may ~~not~~ be appealed to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo. The commission shall not take enforcement action against a district under Subchapter I until the later of the expiration of the 180-day period, or the date the Texas Water Development Board has taken final action withholding approval ~~certification~~ of a revised management plan, the date the mediation is completed, or the date a final judgment upholding the board's decision is entered by a district court. An enforcement action may not be taken against a district by the commission or the state auditor under Subchapter I because the district's management plan and the approved regional water plan are in conflict while the parties are attempting to resolve the conflict before the development board, in mediation, or in court. Rules of the district continue in full force and effect until all appeals under this subsection have been exhausted and the final judgment is adverse to the district.

(g) In this subsection, "development board" means the Texas Water Development Board. A person with a legally defined interest in groundwater in a district or the regional water planning group may file a petition with the development board stating that a conflict requiring resolution may exist between the district's approved ~~certified groundwater conservation district~~ management plan developed under Section 36.1071 and the state water plan. If a conflict exists, the development board shall provide technical assistance to and facilitate coordination between the involved person or regional water planning group and the district to resolve the conflict. Not later than the 45th day after the date the person or the regional water planning group files a petition with the development board, if the conflict has not been resolved, the district and the involved person or regional planning group may mediate the conflict. The district and the involved person or regional planning group may seek the assistance of the Center for Public Policy Dispute Resolution at The University of Texas School of Law or an alternative dispute resolution system established under Chapter 152, Civil

Practice and Remedies Code, in obtaining a qualified impartial third party to mediate the conflict. The cost of the mediation services must be specified in the agreement between the parties and the Center for Public Policy Dispute Resolution or the alternative dispute resolution system. If the district and the involved person or regional planning group cannot resolve the conflict through mediation remains, the development board shall resolve the conflict not later than the 60th day after the date the mediation is completed. The development board action under this provision may be consolidated, at the option of the board, with related action under Section 16.053(p). If the development board determines that resolution of the conflict requires a revision of the approved certified groundwater conservation district management plan, the development board shall suspend the certification of the plan and provide information to the district. The district shall prepare any revisions to the plan based on the information provided specified by the development board and shall hold, after notice, at least one public hearing at some central location within the district. The district shall consider all public and development board comments, prepare, revise, and adopt its plan, and submit the revised plan to the development board for approval certification. On the request of the district or the regional water planning group, the development board shall include discussion of the conflict and its resolution in the state water plan that the development board provides to the governor, the lieutenant governor, and the speaker of the house of representatives under Section 16.051(e). If the groundwater conservation district disagrees with the decision of the development board under this subsection, the district may appeal the decision to a district court in Travis County. Costs for the appeal shall be set by the court hearing the appeal. An appeal under this subsection is by trial de novo.

SECTION ____ . Section 36.1073, Water Code, is amended to read as follows:

Sec. 36.1073. AMENDMENT TO MANAGEMENT PLAN. Any amendment to the management plan shall be submitted to the executive administrator within 60 days following adoption of the amendment by the district's board. The executive administrator shall review and approve certify any amendment which substantially affects the management plan in accordance with the procedures established under Section 36.1072.

SECTION ____ . Subchapter D, Chapter 36, Water Code, is amended by amending Section 36.108 to read as follows:

Sec. 36.108. JOINT PLANNING IN MANAGEMENT AREA. (a) In this section, "development board" means the Texas Water Development Board.

~~(a)~~(b) If two or more districts are located within the boundaries of the same management area, each district shall prepare a comprehensive management plan as required by Section 36.1071 covering that district's respective territory. On completion and approval certification of the plan as required by Section 36.1072, each district shall forward a copy of the new or revised management plan to the other districts in the management area. The boards of the districts shall consider the plans individually and shall compare them to other management plans then in force in the management area.

~~(b)~~(c) ~~The board of directors of~~ The presiding officer, or their designee, of each district located in whole or in part in the management area shall meet at least annually to conduct ~~may, by resolution, call for~~ joint planning with the other districts in the management area and to review the management plans and accomplishments for the management area. In reviewing the management plans, the ~~districts boards~~ shall consider:

(1) the goals of each management plan and its impact on planning throughout the management area;

(2) the effectiveness of the measures established by each management plan for conserving and protecting groundwater and preventing waste, and the effectiveness of these measures in the management area generally; ~~and~~

(3) any other matters that the boards consider relevant to the protection and conservation of groundwater and the prevention of waste in the management area; and-

(4) the degree to which each management plan achieves the desired future conditions established during the joint planning process.

(d) Not later than five years after the effective date of this subsection and every five years thereafter, During the joint planning process, the districts shall consider groundwater availability models and other data or information for the management area and shall establish desired future conditions for the relevant aquifers within the management area. In establishing the desired future conditions of the aquifers under this section, the districts shall consider uses or conditions of an aquifer within the management area that differ substantially from one geographic area to another. The districts may establish different desired future conditions for:

(1) each aquifer, subdivision of an aquifer, or geologic strata located in whole or in part within the boundaries of the management area; or

(2) each geographic area overlying an aquifer in whole or in part or subdivision of an aquifer within the boundaries of the management area.

(d-1) The desired future conditions established under Subsection (d) must be adopted by two-thirds vote of the district representatives present at a meeting.

(1) at which at least two-thirds of the districts located in whole or in part in the management area have a voting representative in attendance; and

(2) for which all districts located in whole or in part in the management area provide public notice in accordance with Chapter 551, Government Code.

(d-2) Each district in the management area shall ensure that its management plan contains goals and objectives consistent with achieving the desired future conditions of the relevant aquifers as adopted during the joint planning process.

~~(e)~~ If a joint meeting of the boards of directors is called, the meeting must be under this section must be held in accordance with Chapter 551, Government Code. Each district shall comply with Chapter 552, Government Code. Notice of the meeting shall be given in accordance with the requirements for notice of district board of directors meetings under that Act.

~~(d)~~(f) A district or person with a legally defined interest in the groundwater within the management area may file [with good cause] a petition with the commission requesting an inquiry if the petitioner district adopted a resolution

~~calling for joint planning and the other~~ a district or districts refused to join in the planning process or the process failed to result in adequate planning, including the establishment of reasonable future desired conditions of the aquifers, and the petition provides evidence that:

(1) ~~another~~ a district in the groundwater management area has failed to adopt rules;

(2) the rules adopted by a district are not designed to achieve the desired future condition of the groundwater resources in the groundwater management area established during the joint planning process;

(3) the groundwater in the management area is not adequately protected by the rules adopted by ~~another~~ a district; or

(4)(3) the groundwater in the groundwater management area is not adequately protected due to the failure of a ~~another~~ district to enforce substantial compliance with its rules.

~~(e)~~(g) Not later than the 90th day after the date the petition is filed, the commission shall review the petition and either:

(1) dismiss the petition if the commission ~~it if it~~ finds that the evidence is not adequate to show that any of the conditions alleged in the petition exist; or

(2) select a review panel as provided in Subsection ~~(f)~~(h).

~~(f)~~(h) If the petition is not dismissed under Subsection ~~(e)~~(g), the commission shall appoint a review panel consisting of a chairman and four other members. A director or general manager of a district located outside the groundwater management area that is the subject of the petition may be appointed to the review panel.

The commission may not appoint more than two members of the review panel from any one district. The commission also shall appoint a disinterested person to serve as a nonvoting recording secretary for the review panel. The recording secretary may be an employee of the commission. The recording secretary shall record and document the proceedings of the panel.

~~(e)~~(i) Not later than the 120th day after appointment, the review panel shall review the petition and any evidence relevant to the petition and, in a public meeting, consider and adopt a report to be submitted to the commission. The commission may direct the review panel to conduct public hearings at a location in the groundwater management area to take evidence on the petition. The review panel may attempt to negotiate a settlement or resolve the dispute by any lawful means.

~~(h)~~(j) In its report, the review panel shall include:

(1) a summary of all evidence taken in any hearing on the petition;

(2) a list of findings and recommended actions appropriate for the commission to take and the reasons it finds those actions appropriate; and

(3) any other information the panel considers appropriate.

~~(i)~~(k) The review panel shall submit its report to the commission. The commission may take action under Section 36.3011.

(l) A person with a legally defined interest in the groundwater in the groundwater management area, a district in or adjacent to the groundwater management area, or a regional water planning group for a region in the

groundwater management area may file a petition with the development board appealing the approval of the desired future conditions of the groundwater resources established under this section. The petition must provide evidence that the districts did not establish a reasonable desired future condition of the groundwater resources in the groundwater management area.

(m) The development board shall review the petition and any evidence relevant to the petition. The development board shall hold at least one hearing at a central location in the management area to take testimony on the petition. The development board may delegate responsibility for a hearing to the executive administrator or to a person designated by the executive administrator. If the development board finds that the conditions require revision, the development board shall submit a report to the districts that includes a list of findings and recommended revisions to the desired future conditions of the groundwater resources.

(n) The districts shall prepare a revised plan in accordance with development board recommendations and hold, after notice, at least one public hearing at a central location in the groundwater management area. After consideration of all public and development board comments, the districts shall revise the conditions and submit it to the development board for review.

(o) The districts shall submit the conditions established under this section to the executive administrator. The executive administrator shall provide each district and regional water planning group located wholly or partly in the management area with the managed available groundwater in the management area based upon the desired future condition of the groundwater resources established under this section.

(p) Districts located within the same groundwater management areas or in adjacent management areas may contract to jointly conduct studies or research, or to construct projects, under terms and conditions that the districts consider beneficial. These joint efforts may include studies of groundwater availability and quality, aquifer modeling, and the interaction of groundwater and surface water; educational programs; the purchase and sharing of equipment; and the implementation of projects to make groundwater available, including aquifer recharge, brush control, weather modification, desalination, regionalization, and treatment or conveyance facilities. The districts may contract under their existing authorizations including those of Chapter 791, Government Code, if their contracting authority is not limited by Sections 791.011(c)(2) and (d)(3) and Section 791.014, Government Code.

SECTION __. Section 36.109, Water Code, is amended to read as follows:

Sec. 36.109. COLLECTION OF INFORMATION. A district may collect any information the board deems necessary, including information regarding the use of groundwater, water conservation, and the practicability of recharging a groundwater reservoir. At the request of the executive administrator, the district shall provide any data collected by the district in a format acceptable to the executive administrator.

SECTION __. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1132 to read as follows:

Sec. 36.1132. PERMITS BASED ON MANAGED AVAILABLE GROUNDWATER. A district, to the extent possible, shall issue permits up to the point that the total volume of groundwater permitted equals the managed available groundwater, if administratively complete permit applications are submitted to the district.

SECTION ____. Section 36.3011, Water Code, is amended to read as follows:

Sec. 36.3011. FAILURE OF A DISTRICT TO CONDUCT JOINT PLANNING. ~~(a) If the board of a district within a common management area fails to forward a copy of its new or revised certified management plan under Section 36.108, the commission shall take appropriate action under Section 36.303.~~

~~(b)~~ Not later than the 45th day after receiving the review panel's report under Section 36.108, the executive director or the commission shall take action to implement any or all of the panel's recommendations. The commission may take any action against a district it considers necessary in accordance with Section 36.303 if ~~if~~ the commission finds that:

(1) a district in the joint planning area has failed to submit its plan to the executive administrator;

(2) a district has failed to adopt rules;

(3) the rules adopted by the district are not designed to achieve the desired future condition of the groundwater resources in the groundwater management area; or

(4) the groundwater in the management area is not adequately protected by the rules adopted by the district, or the groundwater in the management area is not adequately protected because of the district's failure to enforce substantial compliance with its rules; ~~the commission may take any action it considers necessary in accordance with Section 36.303.~~

SECTION ____. Subsection (d), Section 36.302, Water Code, is amended to read as follows:

(d) The state auditor may perform the review under Subsection (a) following the first anniversary of the initial approval ~~certification~~ of the plan ~~by the Texas Water Development Board~~ under Section 36.1072 and at least as often as once every seven years after that date, subject to a risk assessment and to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, Government Code.

SECTION ____. Subsection (a), Section 36.304, Water Code, is amended to read as follows:

(a) The commission may dissolve a district that-

~~(1) is not operational, as determined under Section 36.302; and~~

~~(2) has no outstanding bonded indebtedness.~~

SECTION ____. Subsection (a) and (b), Section 36.116, Water Code is amended as follows:

(a) In order to minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, to control subsidence, to prevent interference between wells, to prevent degradation of water quality, or to prevent waste, a district by rule may regulate:

(1) the spacing of water wells by:

(A) requiring all water wells to be spaced a certain distance from property lines or adjoining wells;

(B) requiring wells with a certain production capacity, pump size, or other characteristic related to the construction or operation of and production from a well to be spaced a certain distance from property lines or adjoining wells; or

(C) imposing spacing requirements adopted by the board; and

(2) the production of groundwater by:

(A) setting production limits on wells;

(B) limiting the amount of water produced based on acreage or tract size;

(C) limiting the amount of water that may be produced from a defined number of acres assigned to an authorized well site;

(D) limiting the maximum amount of water that may be produced on the basis of acre-feet per acre or gallons per minute per well site per acre; ~~or~~

(E) managed depletion; or

(F) any combination of the methods listed above in Paragraphs (A) through (E) ~~(D)~~.

(b) In promulgating any rules limiting groundwater production, the district may preserve historic or existing use before the effective date of the rules to the maximum extent practicable consistent with the district's comprehensive management plan under Section 36.1071 and as provided by Section 36.113.

SECTION __. Section 9.017, Water Code, is repealed.

**HB 2678 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Smithee called up with senate amendments for consideration at this time,

HB 2678, A bill to be entitled An Act relating to the use of certain information to underwrite professional liability insurance for physicians and health care providers.

Representative Smithee moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2678**.

The motion prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2678**: Smithee, chair; Eiland; Seaman; Taylor; and Rose.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

**SB 334 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative B. Keffer, the house granted the request of the senate for the appointment of a conference committee on **SB 334**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 334**: B. Keffer, chair; Nixon; Van Arsdale; Paxton; and Rose.

SB 368 - HOUSE APPOINTS NEW CONFEREES

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 368**: Hartnett, chair; Luna; Dutton; Hughes; and Crabb.

PROVIDING FOR RECESS

Representative Truitt moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 9 a.m. today, May 25, in memory of Steven Tucker of Colleyville who was killed in the line of duty.

The motion prevailed.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

HB 511 - STATEMENT OF LEGISLATIVE INTENT

Re: Chapter 35.43 of the Business & Commerce Code. The meaning of Section 35.43 Subsection (g) when it references compliance with B and D means that the company shall comply with the applicable subsection and is not required to comply with both subsections if only one is applicable under the language of that particular subsection.

Hochberg

(Hochberg in the chair)

RECESS

In accordance with a previous motion, the house, at 12:26 a.m., recessed until 9 a.m. today, May 25.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

SB 178 to Insurance.

SB 1296 to Land and Resource Management.

SB 1544 to Higher Education.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 50

HB 535, HB 628, HB 719, HB 813, HB 839, HB 904, HB 960, HB 1186, HB 1271, HB 1409, HB 1428, HB 1474, HB 1558, HB 1577, HB 1863, HB 1997, HB 2420, HB 2619, HB 3525, HCR 93, HCR 131, HCR 159, HCR 202, HCR 211

Senate List No. 28

SB 48, SB 316, SB 335, SB 485, SB 679, SB 898, SB 912, SB 945, SB 1257, SB 1330, SB 1378, SB 1465, SB 1864, SB 1865, SB 1882, SB 1884

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 24, 2005

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

LOCAL AND UNCONTESTED CALENDAR

- HB 68** McClendon SPONSOR: Williams
Relating to public nuisance actions involving criminal street gangs.
- HB 126** Berman SPONSOR: Eltife
Relating to the penalty for tampering with a governmental record establishing residency for enrollment in a public school.
- HB 129** Berman SPONSOR: Eltife
Relating to the authority to require a convicted person to perform manual labor for a nonprofit organization or a cemetery maintained by the county.
- HB 160** McCall SPONSOR: Wentworth
Relating to motor vehicles equipped with recording devices.
- HB 248** Goodman SPONSOR: Harris
Relating to the amendment of certain qualified domestic relations orders.
- HB 252** Goodman SPONSOR: Harris
Relating to the use of parenting plans and parenting coordinators in suits affecting the parent-child relationship.
- HB 258** Pena SPONSOR: Hinojosa
Relating to authorizing a sports recreation and wellness facility fee at The University of Texas–Pan American.
- HB 265** Smith, Wayne SPONSOR: Eltife
Relating to the time for processing a municipal building permit.
- HB 291** Goolsby SPONSOR: Carona
Relating to victim notification regarding the release of certain defendants following acquittal by reason of insanity.
- HB 308** Hope SPONSOR: Staples
Relating to discipline in public schools and the assignment of certain public school students involved in a sexual assault.
- HB 352** Goodman SPONSOR: Brimer
Relating to the collection of municipal hotel occupancy taxes.
- HB 410** Goodman SPONSOR: Harris
Relating to the property interests of spouses in connection with certain separate and community property.
- HB 422** Casteel SPONSOR: Wentworth
Relating to park and recreation districts.
- HB 549** Phillips SPONSOR: Seliger
Relating to prohibiting the introduction of certain items in correctional facilities.
- HB 598** Blake SPONSOR: Staples
Relating to a recreational sports fee at Stephen F. Austin State University.
- HB 629** Solomons SPONSOR: Brimer
Relating to notice required for a mechanic's, contractor's, or materialman's lien in certain circumstances.
- HB 657** Bonnen SPONSOR: Averitt

Relating to terminating the parent-child relationship of a parent convicted of certain crimes.

HB 754 Gattis SPONSOR: Fraser

Relating to transportation of loose materials.

HB 788 Hardcastle SPONSOR: Duncan

Relating to the jurisdiction of the district court and the transfer of cases from the county courts in the 50th Judicial District to the district court.

HB 798 Uresti SPONSOR: Van de Putte

Relating to release of a child taken into protective custody by a law enforcement or juvenile probation officer.

HB 840 Riddle SPONSOR: Williams

Relating to the forfeiture of contraband used to facilitate or intended to be used to facilitate the commission of certain criminal offenses.

HB 841 Kolkhorst SPONSOR: Wentworth

Relating to the rates charged by a municipally owned utility to certain recreational vehicle parks for potable water or wastewater service.

HB 856 Callegari SPONSOR: Lindsay

Relating to the general powers, authority, and directors of the West Harris County Regional Water Authority.

HB 956 Dunnam SPONSOR: Ogden

Relating to the composition of the juvenile board of Leon County.

HB 989 Chisum SPONSOR: Seliger

Relating to recovery of certain transmission investments of electric utilities.

HB 993 Gonzales SPONSOR: Hinojosa

Relating to the installment payment of tuition and fees charged by a public junior college, public technical institute, or public state college for a summer term.

HB 1059 Naishtat SPONSOR: Wentworth

Relating to the enforcement of certain protective orders.

HB 1179 Dutton SPONSOR: Harris

Relating to the authority of an associate judge in certain family law cases.

HB 1213 Harper-Brown SPONSOR: Deuell

Relating to fitness incentive pay for certain fire fighters and police officers.

HB 1224 Puente SPONSOR: Duncan

Relating to a study of the effects of take-or-pay contracts on water conservation.

HB 1235 Paxton SPONSOR: Harris

Relating to the notice required for a sale of real property under a contract lien.

HB 1267 Cook, Robby SPONSOR: Armbrister

Relating to changing the name of the Texas Industrial Fire Training Board to the Texas Industrial Emergency Services Board.

HB 1283 Truitt SPONSOR: Carona

Relating to the continuation and functions of the Texas State Board of Examiners of Professional Counselors; providing an administrative penalty.

- HB 1394** Zedler SPONSOR: Brimer
Relating to the appointment of magistrates to serve the municipal court of record in Kennedale.
- HB 1458** Bailey SPONSOR: Gallegos
Relating to the creation of the Airline Improvement District; providing authority to impose a tax and issue a bond or similar obligation.
- HB 1567** Ritter SPONSOR: Williams
Relating to the transition to competition of certain electric utilities outside of ERCOT.
- HB 1586** West, George "Buddy" SPONSOR: Seliger
Relating to the transaction of business by the Court of Appeals for the Eleventh Court of Appeals District.
- HB 1588** Driver SPONSOR: Williams
Relating to the qualifications and removal of and continuing education requirements for a constable.
- HB 1606** Thompson SPONSOR: Ellis
Relating to the level of municipal participation in contracts with developers for public improvements.
- HB 1622** Pitts SPONSOR: Averitt
Relating to the creation of a county court at law in Hill County.
- HB 1642** Hartnett SPONSOR: Harris
Relating to the appointment of interpreters for judicial proceedings.
- HB 1645** Hughes SPONSOR: Deuell
Relating to the designation of United States Highway 80 in this state as the World War II Veterans Memorial Highway.
- HB 1685** Dukes SPONSOR: Ellis
Relating to the establishment of an interagency coordinating council for the prevention of child abuse and neglect.
- HB 1697** McCall SPONSOR: West, Royce
Relating to the use of gifts to fund technology workforce development grants and to the evaluation of the technology workforce development grant program.
- HB 1813** Pickett SPONSOR: Madla
Relating to historical reenactments on premises permitted or licensed under the Alcoholic Beverage Code.
- HB 2017** Swinford SPONSOR: Harris
Relating to a nonsubstantive revision of statutes relating to the Texas Department of Insurance, the business of insurance, and certain related businesses, including conforming amendments, repeals, and penalties.
- HB 2018** Swinford SPONSOR: West, Royce
Relating to nonsubstantive additions to and corrections in enacted codes, to the nonsubstantive codification or disposition of various laws omitted from enacted codes, and to conforming codifications enacted by the 78th Legislature to other Acts of that legislature.
- HB 2019** Swinford SPONSOR: Harris

Relating to the nonsubstantive revision of certain local laws concerning special districts, including conforming amendments.

HB 2108 Berman SPONSOR: Eltife
Relating to a student union fee at The University of Texas at Tyler.

HB 2172 West, George "Buddy" SPONSOR: Seliger
Relating to eligibility for a license or registration for an exemption to engage in liquefied petroleum gas-related activities and to disciplinary action against licensees and registrants.

HB 2200 Thompson SPONSOR: Carona
Relating to the appointment of certified court interpreters.

HB 2243 Jackson, Jim SPONSOR: Carona
Relating to the regulation of locksmiths and locksmith companies under the Private Security Act.

HB 2272 Farabee SPONSOR: Estes
Relating to a student recreational and health facilities fee at Midwestern State University.

HB 2275 Cook, Byron SPONSOR: Ellis
Relating to the forfeiture of certain contraband used in the commission of certain felony intoxication offenses.

HB 2466 Swinford SPONSOR: Ellis
Relating to recycling market development.

HB 2518 Coleman SPONSOR: Duncan
Relating to a mental health court program.

HB 2746 Deshotel SPONSOR: Janek
Relating to the examination requirements for mold assessors and remediators.

HB 2885 Giddings SPONSOR: Carona
Relating to an arrest warrant or complaint for the issuance of a bad check.

HB 2900 Hilderbran SPONSOR: Van de Putte
Relating to the eligibility of certain persons for burial in the state cemetery.

HB 3010 Grusendorf SPONSOR: Harris
Relating to the transfer of a failure to attend school proceeding to juvenile court.

HB 3113 Corte SPONSOR: Seliger
Relating to performance incentive awards for certain employees of state agencies who provide services to veterans.

HB 3163 Noriega, Melissa SPONSOR: Shapleigh
Relating to the membership of the Texas Military Preparedness Commission.

HB 3199 Hope SPONSOR: Staples
Relating to the terms of court of the 410th District Court.

HB 3263 Hegar SPONSOR: Janek
Relating to the powers and duties of the district attorney and county attorney in Fort Bend County.

HB 3481 Hope SPONSOR: Staples

Relating to the appointment of magistrates in the district courts and statutory county courts in Montgomery County.

SB 178 Brimer

Relating to regulation of sharing of certain profits and fees by premium finance companies and certain related persons or entities.

SB 1296 Deuell

Relating to development regulations for certain unincorporated areas associated with the watersheds of Cedar Creek Lake, the Trinity River, and the East Fork of the Trinity River; providing a penalty.

SB 1544 West, Royce

Relating to the purchasing and contracting practices of public junior college districts; providing criminal penalties.

Respectfully,

Patsy Spaw

Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 24, 2005 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 412 Turner SPONSOR: Van de Putte
Relating to the use of credit scoring and credit history by certain telecommunications and electric service providers.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 789 King, Phil SPONSOR: Fraser
Relating to furthering competition in the telecommunications industry.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 916 Woolley SPONSOR: Nelson
Relating to creating the Texas Health Care Policy Council.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1107 Chavez SPONSOR: Shapleigh
Relating to procedures for obtaining relief from local matching funds requirements for highway projects.

HB 1516 Isett SPONSOR: Duncan

Relating to the Department of Information Resources' management of state electronic services.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 1892 Eiland SPONSOR: Barrientos
Relating to excluding certain challenge courses from regulation as amusement rides.

HB 2868 Frost SPONSOR: Hinojosa
Relating to civil liability for provision of alcohol to a minor.

HB 3098 Laubenberg SPONSOR: Deuell
Relating to the composition of the Rockwall County Juvenile Board.

HB 3526 Hochberg SPONSOR: Ellis
Relating to the creation of the Greater Sharpstown Management District; providing authority to impose a tax and issue a bond or similar obligation.
(COMMITTEE SUBSTITUTE)

HB 3527 Haggerty SPONSOR: Shapleigh
Relating to the ability of certain water supply or sewer service corporations to dissolve and transfer assets to a municipality.

HB 3534 Denny SPONSOR: Nelson
Relating to the creation of the Denton County Municipal Utility District No. 6; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3546 Otto SPONSOR: Williams
Relating to the creation of the East Montgomery County Municipal Utility Districts Nos. 5, 6, and 7; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3569 Guillen SPONSOR: Zaffirini
Relating to the creation, administration, powers, duties, operation, and financing of the Zapata County Municipal Utility District No. 2.

HB 3574 Giddings SPONSOR: Deuell
Relating to the creation of the Dallas County Municipal Utility District No. 3; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

HB 3582 Brown, Betty SPONSOR: Deuell
Relating to the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5 of Kaufman County.

HCR 195 Pena SPONSOR: Hinojosa
Honoring the life of Jeramie Espinoza.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Tuesday, May 24, 2005 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 209 Goodman SPONSOR: Averitt
Relating to challenging an acknowledgment of paternity executed by a minor.

HB 551 Phillips SPONSOR: Estes
Relating to a project of a development corporation in connection with a primary job.

HB 646 Otto SPONSOR: Seliger
Relating to the provision of certain reports and records requested by the attorney general.
(COMMITTEE SUBSTITUTE)

HB 664 Isett SPONSOR: Duncan
Relating to consideration of a bidder's principal place of business in awarding certain municipal and school district contracts.
(COMMITTEE SUBSTITUTE)

HB 843 Truitt SPONSOR: Nelson
Relating to relating to the authority of certain counties to regulate certain communication facility structures in certain circumstances; providing a penalty.
(COMMITTEE SUBSTITUTE)

HB 867 Allen, Ray SPONSOR: Shapiro
Relating to the registration and supervision of sex offenders; providing penalties.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 988 Chisum SPONSOR: Lucio
Relating to the county in which a seller of a motor vehicle may file an application for registration and certificate of title.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 1068 Driver SPONSOR: Hinojosa
Relating to the collection and analysis of evidence and testimony based on forensic analysis, crime laboratory accreditation, DNA testing, and the creation and maintenance of DNA records; providing a penalty.
(AMENDED)

HB 1116 Solomons SPONSOR: Nelson
Relating to the governmental entities subject to the sunset review process.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 1137 Smith, Wayne SPONSOR: Seliger
Relating to the authority of the Department of Public Safety to enter into agreements with foreign countries for issuance of driver's licenses.

HB 1172 Brown, Fred SPONSOR: Zaffirini
Relating to policies and measures to promote timely graduation of students from public institutions of higher education.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 1379 Jones, Jesse SPONSOR: Deuell
Relating to the admissibility in a civil action of certain information relating to identify theft.

(AMENDED)

HB 1481 Gattis SPONSOR: Wentworth
Relating to the offense of disobeying certain motor vehicle traffic warning devices.

HB 1485 Thompson SPONSOR: Ellis
Relating to health benefit plan coverage for screening tests for human papillomavirus and cervical cancer.

HB 1701 Keel SPONSOR: Williams
Relating to the defense of indigent persons accused of a criminal offense.

(COMMITTEE SUBSTITUTE)

HB 1765 Morrison SPONSOR: Shapiro
Relating to the creation of programs and funding for emerging technology industries.

(AMENDED)

HB 1791 Naishtat SPONSOR: Barrientos
Relating to application of the hazing statutes to private institutions of higher education; providing penalties.

HB 1823 Dutton SPONSOR: Lucio
Relating to the rights of a purchaser under an executory contract for conveyance of real property.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 2110 Berman SPONSOR: Eltife
Relating to the applicability of certain weapon laws to certain judges and prosecutors.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 2193 Madden SPONSOR: Whitmire
Relating to the operation of a system of community supervision.

HB 2217 McCall SPONSOR: Staples
Relating to the management of public school land and the permanent school fund.

(COMMITTEE SUBSTITUTE/AMENDED)

HB 2701 Crownover SPONSOR: Janek
Relating to higher education authorities.

HB 2753 Pitts SPONSOR: Ogden

Relating to the powers, duties, and functions of the Legislative Budget Board.
(COMMITTEE SUBSTITUTE)

HB 2806 Morrison SPONSOR: West, Royce
Relating to the regulation of career schools and colleges.
(AMENDED)

HB 2932 Delisi SPONSOR: Zaffirini
Relating to requiring state agency purchasing personnel to disclose certain family relationships with business entities receiving certain state agency contracts.

HB 2958 Hamric SPONSOR: Lindsay
Relating to the creation of freight rail districts; granting authority to issue bonds or other similar obligations to create public debt; granting the power of eminent domain.
(COMMITTEE SUBSTITUTE/AMENDED)

HB 3016 Hill SPONSOR: Staples
Relating to the determination of the market value of certain drug supplies for ad valorem property tax purposes.
(AMENDED)

HB 3539 Hupp SPONSOR: Fraser
Relating to the composition of the board of directors of the Saratoga Underground Water Conservation District.
(AMENDED)

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 261	(31 Yeas, 0 Nays)
SB 736	(31 Yeas, 0 Nays)
SB 833	(31 Yeas, 0 Nays)
SB 863	(31 Yeas, 0 Nays)
SB 1214	(31 Yeas, 0 Nays)
SB 1792	(31 Yeas, 0 Nays)
SB 1800	(31 Yeas, 0 Nays)
SB 1801	(31 Yeas, 0 Nays)
SB 1802	(31 Yeas, 0 Nays)
SB 1803	(31 Yeas, 0 Nays)
SB 1804	(31 Yeas, 0 Nays)
SB 1805	(31 Yeas, 0 Nays)
SB 1808	(31 Yeas, 0 Nays)
SB 1810	(31 Yeas, 0 Nays)
SB 1855	(31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw

Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Tuesday, May 24, 2005 - 4

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 240 Goolsby SPONSOR: Lucio
Relating to the right of an adopted person to have access to the person's original birth certificate.

HB 345 Solomons SPONSOR: Seliger
Relating to the disclosure of certain information provided on a voter registration application.

HB 1053 Hope SPONSOR: Staples
Relating to the location of certain municipal solid waste landfills.
(AMENDED)

HB 1601 Madden SPONSOR: Averitt
Relating to the use of interpreter services in a criminal case.
(AMENDED)

HB 1611 Chisum SPONSOR: Armbrister
Relating to the use of money for the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement program; making an appropriation.
(AMENDED)

HB 1634 Allen, Ray SPONSOR: Gallegos
Relating to arson and arson investigation; creating offenses.
(AMENDED)

HB 1772 Miller SPONSOR: Fraser
Relating to permitting a general-law municipality to annex land in certain circumstances.
(AMENDED)

HB 2218 McCall SPONSOR: Brimer
Relating to the regulation of money services businesses; providing a penalty.
(COMMITTEE SUBSTITUTE)

HB 2579 Rodriguez SPONSOR: Zaffirini
Relating to procedures to ensure the involvement of parents or guardians of children placed in certain institutions.

(COMMITTEE SUBSTITUTE)

HB 3111 Cortez SPONSOR: Janek
Relating to authorizing the presiding officer of a political subdivision to order an evacuation in certain emergency circumstances.

HB 3434 Hartnett SPONSOR: Wentworth
Relating to testamentary and nontestamentary transfers of property and other benefits and the administration of those benefits.
(COMMITTEE SUBSTITUTE/AMENDED)

HJR 80 Krusee SPONSOR: Ogden
Proposing a constitutional amendment clarifying that certain economic development programs do not constitute a debt.
(AMENDED)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Wednesday, May 25, 2005-1

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 2129 Bonnen SPONSOR: Armbrister
Relating to energy-saving measures that reduce the emission of air contaminants.
(AMENDED)

HB 2421 Chavez SPONSOR: Zaffirini
Relating to the use of an employer assessment to fund the skills development program and authorizing the Texas Workforce Commission to develop new job incentive programs.
(AMENDED)

HB 3540 Pitts SPONSOR: Ogden
Relating to certain fiscal matters affecting governmental entities; providing penalties.
(COMMITTEE SUBSTITUTE/AMENDED)

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 23

Pensions and Investments - **SB 751, SB 1319**

ENROLLED

May 23 - HB 812, HB 1141, HB 1186, HB 1262, HB 1382, HB 1428, HB 1587, HB 1901, HB 2025, HB 2037, HB 2079, HB 2174, HB 2322, HB 2336, HB 2374, HB 2410, HB 2420, HB 2451, HB 2685, HB 3486, HB 3517, HCR 93, HCR 131, HCR 159, HCR 202, HCR 211, HJR 6